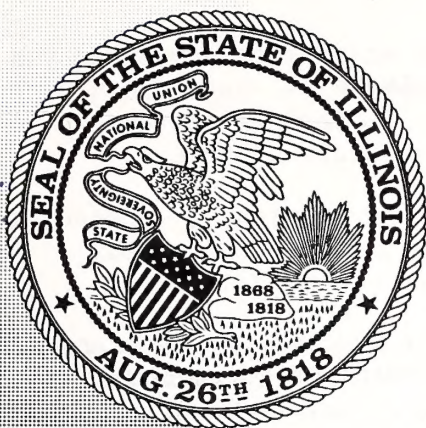


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**1996**

# ***Illinois Register***

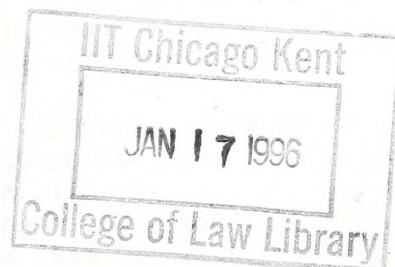
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## **Rules of Governmental Agencies**

Volume 20, Issue 02— January 12, 1996

Pages 658 - 934

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Index Department  
Administrative Code Div.  
111 East Monroe Street  
Springfield, IL 62756  
(217) 782-7017

published by  
**George H. Ryan**  
Secretary of State

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April 14, 1995 - Issue 15: Through	March 31, 1995
July 14, 1995 - Issue 28: Through	June 30, 1995
October 13, 1995 - Issue 41: Through	September 30, 1995
January 12, 1996 - Issue 2: Through	December 31, 1995 (Annual)

### REGISTER PUBLICATION SCHEDULE 1996

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Jan. 2, 1996	Jan. 9, 1996	3	Jan. 19, 1996	July 9, 1996	July 16, 1996	30	July 26, 1996
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May 7, 1996	May 14, 1996	21	May 24, 1996	Nov. 12, 1996	Nov. 19, 1996	48	Dec. 2, 1996 (Mon.)
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June 18, 1996	June 25, 1996	27	July 5, 1996	Dec. 23, 1996	Dec. 31, 1996	2	Jan. 10, 1997

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).



## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Relative Home Placement

2) Code Citation: 89 Ill. Adm. Code 335

3) Section Numbers: Proposed Action:  
335.100 Amendment

4) Statutory Authority: 20 ILCS 505/5(u-5)

5) A Complete Description of the Subjects and Issues Involved: Public Act 89-21 amended the Children and Family Services Act to require that foster care payments may only be made to homes which are licensed as foster family homes under the Child Care Act of 1969. Relative caregivers who were not licensed as foster family homes and who were providing care for unrelated children were reduced to the Department of Public Aid's child only standard of need.

Public Act 89-21 specifically allowed relatives who had been approved under 89 Ill. Adm. Code 335, Relative Home Placement to apply for licensure as a foster family home and to receive foster care payments until they are licensed, until their application is denied, or until September 30, 1995, whichever occurs first.

These changes in the relative home placement program were appealed by the Legal Assistance Foundation as a violation of the United States Supreme Court decision *Youakim vs. Miller*. A federal district court issued a ruling in this case instructing the Department of Children and Family Services to continue paying the full board rate to relatives who applied for licensure as a foster family home until the license decision is made. This decision was upheld by the U.S. Court of Appeals for the Seventh Circuit.

The Department had adopted amendments to 89 Ill. Adm. Code 335 to enable continued Federal Financial Participation for approved relatives who were seeking licensure as a foster home. The Department adopted emergency amendments effective December 29, 1995 to extend the date of the automatic repealer to Part 335 until December 31, 1996. These proposed amendments will continue the emergency rules in place.

6) Will these proposed amendments replace an emergency rule currently in effect? Yes

7) Does this rulemaking contain an automatic repeal date? Yes

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

10) Statement of Statewide Policy Objectives: These amendments do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act (30 ILCS 805/3(b)).

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jacqueline Nottingham, Chief  
Office of Rules and Procedures  
Department of Children and Family Services  
406 E. Monroe Street, Station #222  
Springfield, IL 62701-1498  
(217) 524-1983 or TTY: (217) 524-3715

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such. Persons who need translation or interpretation services to enable their commentary should request assistance by contacting the Office of Rules and Procedures.

12) Initial Regulatory Flexibility Analysis: The Department has determined that these proposed amendments do not have an effect on small businesses.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: These proposed amendments had not been anticipated and were not included in the Department's regulatory agendas over the past year.

The full text of the proposed amendments begins on page 97.

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Transfer of Violent Juvenile Offenders to the Department of Corrections

- 2) Code Citation: 89 Ill. Adm. Code 312

<u>Section Numbers:</u>	<u>Proposed Action:</u>
312.10	New Section
312.20	New Section
312.30	New Section
312.40	New Section
312.50	New Section
312.60	New Section

- 4) Statutory Authority: Authorized by Section 5 of the Children and Family Services Act [20 ILCS 505/5] and implementing Section 3-10-11 of the Unified Code of Corrections [730 ILCS 5/3-10-11].

- 5) A Complete Description of the Subjects and Issues Involved: This new Part describes the operations of an Interagency Review Committee, as required by amendments to Section 3-10-11 of the Unified Code of Corrections. The Interagency Review Committee is responsible, at the request of the Department of Children and Family Services, for reviewing the history of violent juvenile offenders 10 years of age or older to determine whether the Department of Children and Family Services has adequate facilities to care for and rehabilitate the minor and whether placement with the Department of Corrections, Juvenile Division is appropriate. This new Part governs the operations of the Interagency Review Committee.

- 6) Will these proposed amendments replace an emergency rule currently in effect? Yes

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? No

- 9) Are there any other amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: These amendments do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

The Department will be scheduling public hearings on these proposed new rules in Chicago and Springfield, which will be announced via a notice of public hearing in a later issue of the *Illinois Register*. Testimony will

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED RULES

be taken in the order requests are received. Persons are asked to limit their testimony to a maximum of ten minutes. Persons who need translation or interpretation services to enable their commentary should request assistance prior to the public hearings by contacting the Office of Rules and Procedures.

Written comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jacqueline Nottingham, Chief  
Office of Rules and Procedures  
Department of Children and Family Services  
406 E. Monroe Street, Station #222  
Springfield, Illinois 62701-1498

Telephone: (217) 524-1983  
TTY: (217) 524-3715

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 12) Initial Regulatory Flexibility Analysis: The Department has determined that these proposed amendments do not have an effect on small businesses.

- 13) Regulatory Agenda on which this rulemaking was summarized: January 1995

The full text of the proposed amendments begins on the page 662.



ILLINOIS STATE LABOR RELATIONS BOARD  
ILLINOIS LOCAL LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Freedom of Information
- 2) Code Citation: 2 Ill. Adm. Code 2501
- 3) Section Numbers: Proposed Action:  
2501.10 Amendment  
2501.20 Amendment  
2501.30 Amendment  
2501.40 Amendment  
2501.50 Amendment  
2501.60 Amendment
- 4) Statutory Authority: Illinois Public Labor Relations Act [5 ILCS 315].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking updates the Boards' addresses and designates two types of records that are regarded as confidential.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No

- 10) Statement of Statewide Policy Objectives: These proposed amendments neither create nor expand a state mandate as defined in Section 3(b) of the State Mandates Act, 30 ILCS 805/3.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed with:

Lydia Mills Wendt  
Deputy General Counsel  
Illinois State Labor Relations Board  
320 West Washington Street, Suite 500  
Springfield, IL 62701  
(217) 785-3155

Comments should be filed with the Deputy General Counsel within 45 days of the date of this issue of the *Illinois Register*.

- 12) Initial Regulatory Flexibility Analysis:

ILLINOIS STATE LABOR RELATIONS BOARD  
ILLINOIS LOCAL LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENT

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
  - 13) Regulatory Agenda on which this rulemaking was summarized: July 1995
- The full text of the Proposed Amendment begins on the next page:

ILLINOIS STATE LABOR RELATIONS BOARD  
ILLINOIS LOCAL LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 2: GOVERNMENTAL ORGANIZATION  
SUBTITLE E: MISCELLANEOUS STATE AGENCIES  
CHAPTER XLI: ILLINOIS STATE LABOR RELATIONS BOARD  
ILLINOIS LOCAL LABOR RELATIONS BOARD

PART 2501  
FREEDOM OF INFORMATION

Section	General Categories of Board Records
2501.10	Availability of Certain Records
2501.20	Requests for Access to Records
2501.30	Board's Response to Request
2501.40	Appeal of Denial of Access
2501.50	Place and Time of Inspection
2501.60	Copies

AUTHORITY: Implementing Section 3(g) of the Freedom of Information Act [5 ILCS 140], and authorized by Section 5(j) of the Public Labor Relations Act [5 ILCS 315/15(j)].

SOURCE: Adopted at 9 Ill. Reg. 10067, effective June 17, 1985; amended at 12 Ill. Reg. 22204, effective December 8, 1988; amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 2501.10 General Categories of Board Records

- a) The Labor Relations Boards maintain the following general categories of records:
- 1) Case records, covering the processing and disposition of representation and unfair labor practice cases, strike investigations, and requests for declaratory rulings.
  - 2) Mediation/Arbitration records, including the Boards' rosters of mediators/arbitrators, requests for panels therefrom, and related records.
  - 3) Collective Bargaining Agreements filed with the Boards by employers under the Boards' jurisdiction.
  - 4) Minutes of Board meetings.
  - 5) Administrative, fiscal and personnel files, covering the Boards' internal business affairs.
  - 6) General correspondence.
  - 7) Legislative and rulemaking files, covering analyses of bills and proposed rules, comments thereon, and related records.
- b) Within these general categories, some records are readily available to the public for inspection, others are available upon notice or subject to limitations, and some are deemed confidential and exempt from disclosure under any circumstances. The following Section 2501.20

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provides examples.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 2501.20 Availability of Certain Records

- a) The following records maintained by the Labor Relations Boards are readily available for public inspection, meaning they are subject to disclosure and copies are maintained in such a fashion as to ordinarily be accessible for inspection on short notice:
- 1) Dockets of cases filed with the Boards.
  - 2) Pending representation petitions Representation---Petitions (including for certification, decertification, and clarification modification).
  - 3) Current certifications of exclusive bargaining representatives and certifications of results.
  - 4) Decisions rendered by administrative law judges hearing---officers and the Boards.
  - 5) The Illinois Public Employee Mediation/Arbitration Roster, including vitae of roster members.
  - 6) Declaratory Rulings rendered by the General Counsels.
  - 7) Minutes of Board meetings, exclusive of closed sessions.
  - 8) Freedom of Information Requests and the records showing their dispositions.
- b) The following records are deemed accessible for public inspection, but may not be available on short notice; advance arrangements should be made:
- 1) Hearing records Records, including transcripts, briefs filed to administrative law judges hearing---officers and exceptions and briefs filed with the Boards and other record materials from Board-conducted hearings in both representation and unfair labor practice cases.
  - 2) Mediation/Arbitration records, including requests to the Boards for the appointment of mediators, fact-finders and arbitrators, the Boards' responses to such requests, and the reports filed with the Boards by fact-finders and interest arbitrators.
  - 3) Strike Investigation records, encompassing petitions for strike investigations and the records developed by the Boards in such cases.
  - 4) Rulemaking files, covering the Boards' proposal, review and adoption of regulations.
  - 5) Collective bargaining agreements Bargaining-Agreements filed with the Boards by covered employers.
- c) The following records are regarded as confidential and exempt from disclosure under all circumstances:
- 1) Showings of interest submitted to the Boards in



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conjunction with petitions in representation cases, and materials generated by the Boards' investigations of such showings.

- 2) Investigation files ~~files~~ in unfair labor practice cases.
- 3) Marked ballots and voting lists and other records potentially identifying voters (or non-voters) and the character of their votes in secret ballot elections conducted by the Boards.
- 4) Internal personnel files ~~Personnel~~---~~files~~ regarding Board employees.
- 5) Preliminary drafts, notes, recommendations and memoranda by Board members or Board personnel in which opinions are expressed or policies or actions proposed or formulated.
- 6) Investigation files in objections to elections.
- 7) Drafts, notes, recommendations, memoranda and other materials relating to litigation involving the Boards.

- d) All other records maintained by the Boards shall be available for public inspection to the extent mandated by the Freedom of Information Act [5 ILCS 140] ~~Ill-Rev-Stat-1987-ch-116-par-201-et-seq-7~~, pursuant to the procedures specified in Section 2501.30 of this Part.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 2501.30 Requests for Access to Records

- a) Requests under the Freedom of Information Act for access to public records of the Local Labor Relations Board shall be submitted to the Board Clerk, Local Labor Relations Board, 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103 ~~Ill-North-Ganai-Street, Suite-9407-Chicago-Illinois-60606~~. Each request submitted by mail should be enclosed in an envelope clearly marked "FOIA REQUEST".

- b) Requests under the Freedom of Information Act for access to public records of the State Labor Relations Board shall be submitted to the Board Clerk, at either 320 West Washington Street, Suite 500, Springfield, Illinois 62701 or 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103 ~~Ill-North-Ganai-Street, Suite-9407-Chicago-Illinois-60606~~. Each request submitted by mail should be enclosed in an envelope clearly marked "FOIA REQUEST".

- c) Forms for making FOIA requests are available from the Board Clerks of the respective Boards. Each request must be in writing and include the requester's full name, address and telephone number; a clear description of the records sought; and a statement whether the request is for inspection of the documents, or for copying of them, or both. Oral requests for access to records will be entertained, but will not trigger the required response times and appeal rights set forth in this Part.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

ILLINOIS STATE LABOR RELATIONS BOARD  
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Section 2501.40 Board's Response to Request \_\_\_\_\_)

- a) The appropriate Labor Relations Board to which a written request for access to records has been made under Section 2501.30 of this Part will respond to the request within 7 working days after its receipt unless, within that period, the Board notifies the requester that it will require an extension of up to 7 additional working days. A notice of such an extension shall state the reasons why the extension is needed.
- b) If the Board, through its staff, approves a request for public records, it will notify the requester when the records will be made available for inspection. If the request is for copies of records, the copies shall be provided after the requester has tendered payment in full to the appropriate Board for the applicable copying fees specified in Section 2501.70 of this Part.
- c) If the Board, through its staff, denies in whole or in part a written request for records, notice of the denial shall be given in writing stating the reasons therefor. The notice shall also identify by name and title the staff person(s) responsible for the denial, and shall advise the requester that the denial may be appealed to the Board. If the denial goes to only a portion of the requested records, the notice shall advise how and when the request will otherwise be granted. A categorical request for records which is unduly burdensome to the Board will be denied only after affording the requester an opportunity to confer and to narrow the request to manageable proportions.
- d) The appropriate Board's failure to respond to a request within the period of time prescribed in Section 2501.40(a) of this Part may be treated by the requester as a denial of the request.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 2501.50 Appeal of Denial of Access

- a) A person whose written request for public records has been denied by the staff of either Labor Relations Board may appeal the denial to that Board. The appeal must be in writing and must include a copy of the original request, a copy of the denial (if any), and a statement of the reasons why the denial should be overturned.
- b) An appeal to the Local Labor Relations Board shall be addressed to it at 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103 ~~Ill-North-Ganai-Street, Suite-9407-Chicago-Illinois-60606~~, and shall be clearly designated: "ATTN: FOIA APPEAL". An appeal to the State Labor Relations Board shall be addressed to it at either 320 West Washington, Suite 500, Springfield, Illinois 62701 or 160 North





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compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendment begins on the next page:

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ILLINOIS LOCAL LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE C: LABOR RELATIONS

CHAPTER IV: ILLINOIS STATE LABOR RELATIONS BOARD/

ILLINOIS LOCAL LABOR RELATIONS BOARD

PART 1200

GENERAL PROCEDURES

Section	
1200.10	Definitions
1200.20	Filing and Service of Documents
1200.30	Computation and Extensions of Time
1200.40	Authority of Administrative Law Judges
1200.50	Recording of Hearings
1200.60	Oral Argument and Briefs
1200.70	Representation of Parties
1200.80	Ex Parte Communications
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1200.105	Consolidation of Proceedings
1200.110	Amicus Curiae Briefs
1200.120	Voluntary Settlement or Adjustment of Disputes
1200.130	Rules of Evidence
1200.140	Declaratory Rulings
1200.150	Conflicts of Interest
1200.160	Variances and Suspensions of Rules

**AUTHORITY:** Implementing and authorized by the Illinois Public Labor Relations Act [5 ILCS 315].

**SOURCE:** Emergency rule adopted at 8 Ill. Reg. 17314, effective September 11, 1984, for a maximum of 150 days; adopted at 9 Ill. Reg. 1846, effective January 25, 1985; amended at 11 Ill. Reg. 6428, effective March 27, 1987; amended at 12 Ill. Reg. 20096, effective November 18, 1988; amended at 14 Ill. Reg. 19896, effective November 30, 1990; amended at 17 Ill. Reg. 15588, effective September 13, 1993; amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1200.30 Computation and Extensions of Time**

- a) In computing any period of time prescribed by the Act or this Part, the day of the act, event, or default after which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included. If the last day falls on a Saturday, Sunday, or legal holiday, the time period shall be automatically extended to the next day that is not a Saturday, Sunday or legal holiday.

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- b) When a time period prescribed under the Act or these rules is less than seven days, intervening Saturdays, Sundays, or legal holidays shall not be included.
- c) Service of a document upon a party by mail shall be presumed complete three days after mailing, if proof of service shows the document was properly addressed. This presumption may be overcome by the addressee, with evidence establishing that the document was not delivered or was delivered at a later date. A party's failure to accept or claim a document served by mail shall not be grounds overcoming the presumption.
- d) Requests for postponements of hearings, investigations or conferences scheduled by the Board or its agents or extensions for the filing of briefs, exceptions or responses must be made prior to the then existing deadlines and will not be granted unless good and sufficient cause is shown and the following requirements are met:
- 1) the requests must be in writing directed to the investigator, administrative law judge, Executive Director or General Counsel responsible for the proceeding;
  - 2) the grounds for the request must be set forth in detail;
  - 3) the requesting party must specify alternate days for scheduling the hearing or conference or for the due date of any documents;
  - 4) the position of all parties concerning both the postponement or extension requested and proposed alternate dates must be ascertained in advance by the requesting party and set forth in the request;
  - 5) for purposes of this Section, good and sufficient cause may include a showing to the satisfaction of the Board or its agents that a postponement or extension will result in settlement of the case;
  - 6) except for good cause shown, no request for postponement will be granted on any of the three days immediately preceding the date of a hearing, investigation or conference. All continuances must be to a date and time certain; in no event shall an indefinite continuance be granted.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1200.60 Oral Argument and Briefs

A party is entitled upon request to a reasonable period of time at the close of the hearing for oral argument, which shall be made part of the record. A party is entitled, upon request made before the close of the hearing, to file a brief with the administrative law judge, who may fix a reasonable time for the filing based upon the nature of the proceedings and the particular issues. The Board or the administrative law judge shall direct the filing of briefs when the filing is, in the opinion of the Board or administrative law judge, warranted

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by the nature of the proceedings or the particular issues involved. All briefs, whether filed with the Board or an administrative law judge, shall be no more than 50 double-spaced pages with reasonable margins of at least 1/2 inch, including attachments;---Brieft---longer---then---50---pages---will---not---be accepted, unless prior approval has been granted by the administrative law judge or the General Counsel, all of the pages in excess of the 50 page limit will be rejected. Such approval will only be granted in extraordinary circumstances (e.g., in cases involving extremely complex issues, in cases involving factual or legal issues of first impression, or in cases involving a lengthy factual record).

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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1) Heading of the Part: Public Information, Rulemaking and Organization

2) Code Citation: 2 Ill. Adm. Code 2500

3) Section Numbers: Proposed Action:

2500.10 Amendment  
2500.20 Amendment  
2500.120 Amendment  
2500.210 Amendment  
2500.220 Amendment  
Appendix A  
Appendix B  
Repeal

4) Statutory Authority: Illinois Public Labor Relations Act [5 ILCS 315].

5) A Complete Description of the Subjects and Issues Involved: This rulemaking updates the Boards' addresses, statutory references and organization. Additionally, this rulemaking reflects the combination of the Boards' staffs.

6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments neither create nor expand a state mandate as defined in Section 3(b) of the State Mandates Act, 30 ILCS 805/3.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Comments should be filed with:

Lydia Mills Wendt  
Deputy General Counsel  
Illinois State Labor Relations Board  
320 West Washington Street, Suite 500  
Springfield, IL 62701  
(217) 785-3155

Comments should be filed with the Deputy General Counsel within 45 days of the date of this issue of the *Illinois Register*.

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12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendment begins on the next page:

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TITLE 2: GOVERNMENTAL ORGANIZATION  
SUBTITLE E: MISCELLANEOUS STATE AGENCIES  
CHAPTER XII: ILLINOIS STATE LABOR RELATIONS BOARD/  
ILLINOIS LOCAL LABOR RELATIONS BOARD

## PART 2500

### PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION

#### SUBPART A: PUBLIC INFORMATION

Section  
2500.10 General Information  
2500.20 Procedural Information  
2500.30 Access to Board Materials

#### SUBPART B: RULEMAKING

Section  
2500.110 Procedure  
2500.120 Petition for Rulemaking

#### SUBPART C: ORGANIZATION

Section  
2500.210 Composition of the Board  
2500.220 Staff Structures  
APPENDIX A State and Local Boards Organizational Board-Organization Chart  
APPENDIX B State Board Organization Chart (Repealed)

AUTHORITY: Implementing Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and authorized by Section 5(j) of the Public Labor Relations Act [5 ILCS 315/5].

SOURCE: Adopted at 9 Ill. Reg. 10077, effective June 17, 1985; amended at 12 Ill. Reg. 22210, effective December 8, 1988; corrected at 13 Ill. Reg. 2883; amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

#### SUBPART A: PUBLIC INFORMATION

### Section 2500.10 General Information

- a) The Local Labor Relations Board has jurisdiction over collective bargaining matters between employee organizations and units of local government with a population in excess of 1 million persons, but excluding the Regional Transportation Authority. [5 ILCS 315/5(b)] of labor-relations-matters-involving-public-employees-and-units-of-local government--covering--non-educational--populations--in-excess--of-one

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million-persons. Such units include the County of Cook, the City of Chicago, the Chicago Transit Authority, the Metropolitan Sanitary District of Greater Chicago, the Chicago Housing Authority and the Chicago Park District. The Local Board maintains an office at 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103. ~~North-Canal-Street-7-Suite-9407-Chicago-Illinois-60606. Its telephone number is (312)793-6400. General information regarding the Local Board and its activities may be obtained by writing or telephoning the Board. Information regarding the Board's docket of pending cases and their status may be obtained by contacting the Board Clerk at the same address and telephone number.~~

- b) The State Labor Relations Board has jurisdiction over collective bargaining matters between employee organizations and public employers as defined in Section 3(o) of the Act and the Regional Transportation Authority [5 ILCS 315/5(a)] except for units of local government in excess of 1 million persons and school districts ~~of-labor-relations matters--involving--public--employees--and--units--of-local-government covering-populations-of-less-than-one-million-persons. It maintains offices at 320 West Washington Street, Suite 500, Springfield, Illinois 62701 and 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103. ~~North-Canal-Street-7-Suite-9407-Chicago-Illinois-60606. Its telephone numbers are (217)785-3155 and (312)793-6400. General information regarding the State Board and its activities may be obtained by writing or telephoning the Board Clerk at either office. Information regarding the Board's docket of pending cases and their status may be obtained by writing or telephoning the Board clerk at either office.~~~~

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 2500.20 Procedural Information

Information on the procedures followed by the Illinois State and Local Labor Relations Boards (Labor Relations Boards) in discharging their statutory responsibilities is set forth in detail in the Boards' various procedural rules. Those rules are promulgated jointly by both Boards and cover the following subjects: General Procedures (including-hearing-procedures), 80 Ill. Adm. Code 1200; Representation Proceedings (proceedings-seeking--certification--decertification--or--clarification--of--an-exclusive-bargaining-representative), 80 Ill. Adm. Code 1210; Unfair Labor Practice Proceedings, 80 Ill. Adm. Code 1220; and Impasse Procedures (governing-mediation-and-arbitration-of-statements-in-negotiations--and-the-investigation-of-strikes), 80 Ill. Adm. Code 1230.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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SUBPART B: RULEMAKING

Section 2500.110 Procedure

Proposed additions, amendments or repealers to the rules of the Labor Relations Boards must be undertaken jointly by the Boards. The Boards follow the rulemaking procedures prescribed under the Illinois Administrative Procedure Act [5 ILCS 100] (1111-Rev.-Stat.-1991; ch.-127-par.1-101-1-et seq.).

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 2500.120 Petition for Rulemaking

Any person may request that the Labor Relations Boards jointly promulgate, amend or repeal a rule by submitting a written petition of such effort to the Executive Director or General Counsel Chairman of the Boards. The petition must be typewritten on standard letter-size paper, shall set forth in particular the rulemaking action desired, and shall contain the person's reasons in support of the request. A petition filed in accordance herewith will be considered by the Boards and the petitioner shall be notified in writing as to its disposition.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART C: ORGANIZATION

Section 2500.210 Composition of the Board

- a) The Local Labor Relations Board is comprised of a Chairman and two Members. The Chairman is appointed by the Governor with the advice and consent of the Senate, and simultaneously serves as Chairman of the State Labor Relations Board with a term of four years. One of the Local Board Members is appointed by the Mayor of the City of Chicago with a term of four years and the other Member is appointed by the President of the Cook County Board of Commissioners with a term of four years.
- b) The State Labor Relations Board is comprised of a Chairman and two Members. All are appointed by the Governor with the advice and consent of the Senate; each is appointed for a term of four years; the Chairman simultaneously serves as Chairman of the Local Labor Relations Board.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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Section 2500.220 Staff Structures

The Labor Relations Boards shall employ an Executive Director and a General Counsel who shall be responsible for the operations of the offices of the Boards. The staff ~~staffs~~ of the Labor Relations Boards ~~is~~ are organized chiefly into two divisions, as depicted in Appendix A ~~for the Local-Board and Appendix-B-for-the-State-Board~~. The Boards' ~~Each-Board's~~ Executive Director is responsible for the Boards' ~~that-Board's~~ administrative operations, and for supervising the Boards' ~~investigators--who-conduct-initia~~ investigations of representation petitions and unfair labor practice charges filed with the Boards ~~each-Board~~. The Boards' ~~Each-Board's~~ General Counsel is responsible for its legal affairs, for advising the Boards Board on legal matters, and for supervising the Boards' Board's attorneys who serve as administrative law judges ~~hearing---officers~~ in representation and unfair labor practice proceedings.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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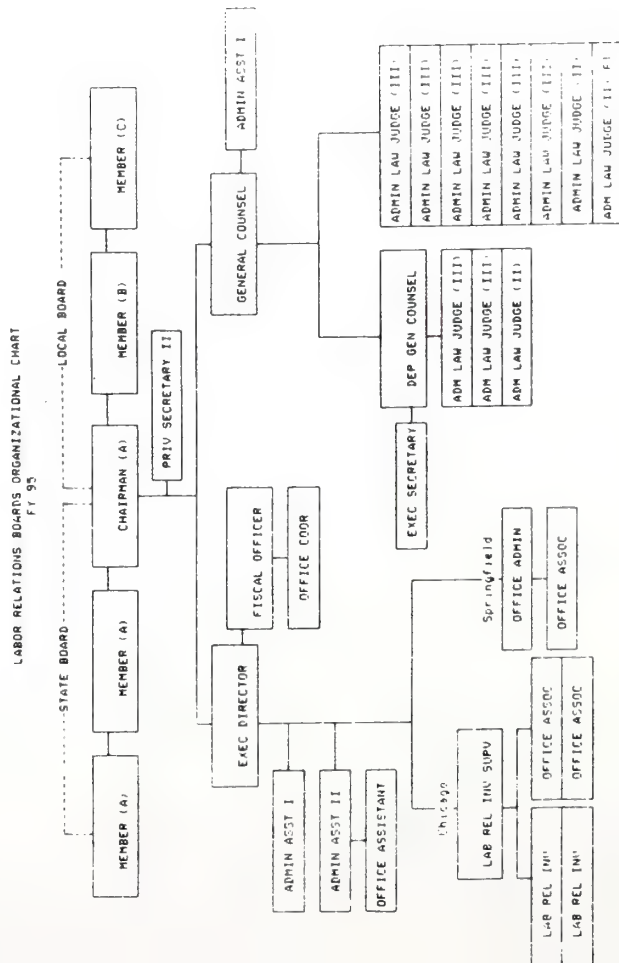
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(Source: Amended at 20 \_\_\_\_\_, effective \_\_\_\_\_)

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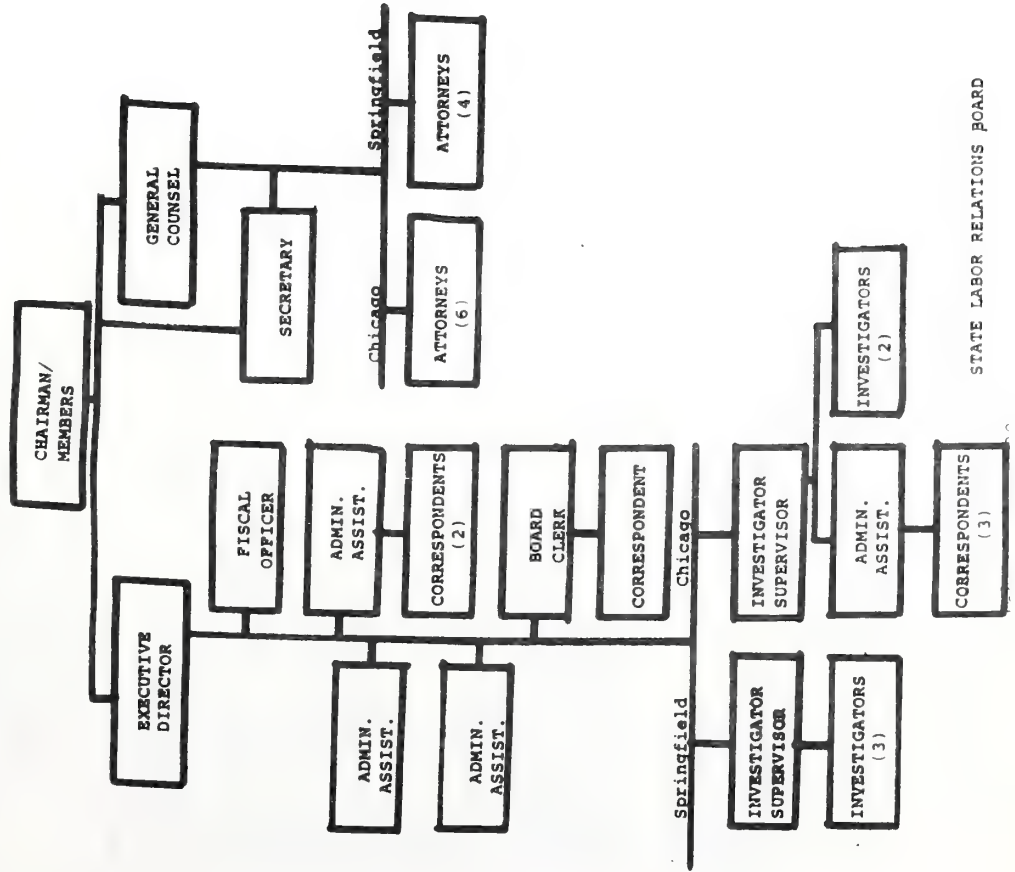
## Section 2500. APPENDIX A State and Local Boards Organizational Board Organization Chart



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## Section 2500.APPENDIX B State Board Organization Chart (Repealed)

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(Source: Repealed at 20, Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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- 1) Heading of the Part: Representation Proceedings
- 2) Code Citation: 80 Ill. Adm. Code 1210
- 3) Section Numbers: Proposed Action:  
1210.100 Amendment
- 4) Statutory Authority: Illinois Public Labor Relations Act [5 ILCS 315].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking streamlines the Boards' investigation of representation petitions and clarifies the authority of administrative law judges during the investigation of representation proceedings.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this rulemaking contain incorporations by reference? No

- 9) Are there any other proposed rulemakings pending on this Part? No

- 10) Statement of Statewide Policy Objectives: These proposed amendments neither create nor expand a state mandate as defined in Section 3(b) of the State Mandates Act, 30 ILCS 805/3.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Comments should be filed with:

Lydia Mills Wendt  
Deputy General Counsel  
Illinois State Labor Relations Board  
320 West Washington Street, Suite 500  
Springfield, IL 62701  
(217) 785-3155

Comments should be filed with the Deputy General Counsel within 45 days of the date of this issue of the *Illinois Register*.

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

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- B) Reporting, bookkeeping or other procedures required for compliance:  
None
  - C) Types of professional skills necessary for compliance: None
  - 13) Regulatory Agenda on which this rulemaking was summarized: July 1995
- The full text of the Proposed Amendment begins on the next page:

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE C: LABOR RELATIONS

CHAPTER IV: ILLINOIS STATE LABOR RELATIONS BOARD/

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PART 1210

REPRESENTATION PROCEEDINGS

Section	General Statement of Purpose
1210.10	Labor Organization Options in Seeking Recognition
1210.20	Employer Options in Responding to Recognition Requests
1210.30	Representation Petitions
1210.40	Intervention Petitions
1210.50	Decertification Petitions
1210.60	Timeliness of Petitions
1210.70	Showing of Interest
1210.80	Posting of Notice
1210.90	Processing of Petitions
1210.100	Consent Elections
1210.110	Bargaining Unit Determinations
1210.120	Eligibility of Voters
1210.130	Conduct of the Election
1210.140	Objections to the Election
1210.150	Voluntary Recognition Procedures
1210.160	Petitions for Amendment or Clarification of the Bargaining Unit
1210.170	Petitions to Amend Certification
1210.180	Expedited Elections Pursuant to Section 10(b)(7)(C) of the Act
1210.190	

**AUTHORITY:** Implementing Section 9 and authorized by Section 5(i) and (j) of the Illinois Public Labor Relations Act [5 ILCS 315/9, 5(i) and (j)].

**SOURCE:** Emergency rule adopted at 8 Ill. Reg. 16014, effective August 22, 1984, for a maximum of 150 days; adopted at 9 Ill. Reg. 1870, effective January 25, 1985; amended at 11 Ill. Reg. 6461, effective March 27, 1987; amended at 12 Ill. Reg. 20110, effective November 18, 1988; amended at 14 Ill. Reg. 19930, effective November 30, 1990; amended at 17 Ill. Reg. 15612, effective September 13, 1993; amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1210.100 Processing of Petitions**

- a) Within seven days after service of a petition, an employer shall file a list containing the full names of the employees in the proposed bargaining unit. In the event the employer does not supply the list within seven days, the Board shall administratively determine the adequacy of the showing of interest, based on the information provided

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by the union.

- b) All employers parties served with a representation petition and all unions served with a or decertification petition shall file a written response to the petition. Any response filed shall set forth the party's position positions-of-the-parties with respect to the matters asserted in the petition, including, but not limited to, the appropriateness of the bargaining unit and, to the extent known, whether any employees sought by petitioner to be included in the unit are supervisory, managerial or confidential. If a party agrees to the appropriateness of the unit proposed in the petition, it shall so indicate. If a party disagrees with the unit proposed in the petition, it shall describe with particularity what it considers to be an appropriate unit, and shall include a description of the job titles and classifications of the employees to be included and of those to be excluded. The petitioner shall be given a reasonable amount of time to respond to the employer's or the union's position.
- c) The setting forth of a party's position with respect to the appropriate unit shall not be deemed to waive or otherwise preclude the right of that party to subsequently assert a different position with respect to what unit it considers to be appropriate.
- d) Petitions to intervene in the election may be filed with the Board no later than 15 days prior to the date of the election. However, any intervenor who files after the date set for hearing or, if no hearing is held, after the approval of a consent election agreement or the direction of an election, shall have waived objections to the bargaining unit.
- e) Upon receipt of the petition, the Board or its agent shall investigate the petition. If, for any reason during the investigation, the Board or its agent discovers that the petition may be inappropriate, the Board or its agent may issue an order to show cause requesting that the petitioner provide sufficient evidence to overcome the inappropriateness. Failure to provide sufficient evidence of the petitioner's appropriateness can result in the dismissal of the petition. Moreover, in conjunction with subsection (b) above, if, for any reason during the investigation, the Board or its agent discovers that the employer's objections to the representation petition or the union's objections to the decertification petition are insufficient in either law or fact, the Board or its agent may issue an order to show cause requesting that the employer or union provide sufficient evidence to support its defenses. Failure to provide sufficient evidence can result in the waiver of defenses.
- f) After the investigation, the Executive Director shall dismiss a petition, or the administrative law judge shall recommend that a petition be dismissed, when a petition has been filed untimely; when the bargaining unit is clearly inappropriate; when the showing of interest is not adequate; when the employer is not covered by the Act; when the employees are not covered by the Act; and when for any other



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reason there is no reasonable cause to believe that a question of representation exists. The parties shall be given 10 days after service of the Dismissal or Recommended Dismissal to appeal the Order ~~Dismissal~~ to the Board. If the investigation discloses that there is reasonable cause to believe that a question concerning representation exists the Board shall set the matter for hearing before an administrative law judge. All parties shall be given a minimum of 14 days notice of the hearing. If the only issues remaining between the parties after the investigation are logistical, e.g. the date of the election, the Executive Director or administrative law judge may issue an Order Directing Election. The parties shall be given 10 days after service of the ~~Executive Director's~~ Order Directing Election to appeal the Order to the Board.

- g) ~~h)~~ Interested persons, other than labor organizations, who may be necessary to the proceedings, who wish to intervene in the hearing shall direct such requests to the administrative law judge. The request shall be in writing and shall state the grounds for intervention. The administrative law judge shall have discretion to grant or deny the request for intervention. The decision shall be based upon the interests of the intervenor, whether those interests will be adequately protected by existing parties, and the timeliness of the intervenor's request.
- h) ~~g)~~ The administrative law judge may schedule a prehearing conference or request statements of position when it appears to the administrative law judge that such would expedite the procedure.
- i) ~~h)~~ The hearing shall be non-adversarial in nature. All parties may present evidence and make arguments, subject to the control of the administrative law judge.
- j) ~~i)~~ Intermediate rulings of the administrative law judge shall not be subject to interlocutory appeal. Parties may raise objections to such intermediate rulings in their exceptions to the administrative law judge's recommended decision.
- k) ~~j)~~ The administrative law judge shall inquire fully into all matters in dispute, and shall obtain a full and complete record. The administrative law judge shall file and serve on the parties a recommended disposition of the case as expeditiously as possible.
- l) ~~k)~~ In the event the administrative law judge becomes unavailable to the Board during the proceeding, for reasons including but not limited to death or resignation, the general counsel or the general counsel's agent may designate another administrative law judge.
- m) ~~k)~~ Exceptions
  - 1) Parties may file exceptions to the administrative law judge's recommendation and briefs in support of those exceptions no later than 14 days after service of the recommendation. Parties may file responses to exceptions and briefs in support of the responses no later than 10 days after service of the exceptions. Each party shall serve its exceptions, responses, and briefs on

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the other parties. Parties desiring oral argument before the Board shall request oral argument and provide the reasons for the requests in their exceptions or responses. The Board will grant or deny requests for oral argument depending upon the significance, complexity and novelty of the issues. If no exceptions have been filed within the 14-day period, the parties will be deemed to have waived their exceptions.

- 2) Requirements
  - A) Each exception
    - i) shall set forth specifically the questions of procedure, fact, law, or policy to which exceptions are taken;
    - ii) shall identify that part of the administrative law judge's recommended decision and order to which objection is made; and
    - iii) shall state the grounds for the exceptions and shall include the citation of authorities unless set forth in a supporting brief.
  - B) Any exception to a ruling, finding, conclusion, or recommendation which is not specifically urged shall be deemed to have been waived. Any exception which fails to comply with the foregoing requirements may be disregarded.
  - 3) Any brief in support of exceptions shall be confined to the subjects raised in the exceptions and shall contain, in the order indicated, the following:
    - A) A clear and concise statement of the case containing all that is material to the consideration of the questions presented.
    - B) A specification of the questions involved and to be argued.
    - C) The argument, presenting clearly the points of fact and law relied upon in support of the position taken on each question.
  - 4) Briefs in support of responses to exceptions shall be limited to the questions raised in the exceptions and in the brief in support thereof. It shall present clearly the points of fact and law relied upon in support of the positions taken on each question.
- n) ~~l)~~ The Board will review the administrative law judge's recommendation upon request by a party or on its own motion. The Board may adopt all, part, or none of the recommendation depending on the extent to which it is consistent with the record and the applicable law. If the Board determines that a question concerning representation exists, the Board shall direct the holding of an election on a date and at a time and place set by the Board. The Board shall direct the posting of a notice of election.
- o) ~~m)~~ Within seven days following the Board's direction of an election, the employer shall furnish the Board and the labor organizations with

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a list of the full names, alphabetized by last name, and addresses of the employees eligible to vote in the election. The lists shall be provided by personal delivery or certified mail. The employer shall obtain receipts verifying delivery.

D) Where the Board orders an election in a unit different from the one petitioned for, the petitioner and intervenors, if any, shall have five days to submit a showing of interest in the new unit.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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1) Heading of the Part: Unfair Labor Practice Proceedings

2) Code Citation: 80 Ill. Adm. Code 1220

3) Section Numbers: Proposed Action:  
1220.40 Amendment

4) Statutory Authority: Illinois Public Labor Relations Act [4 ILCS 315].

5) A Complete Description of the Subjects and Issues Involved: This rulemaking clarifies the existing regulations concerning the timely filing of answers.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments neither create nor expand a state mandate as defined in Section 3(b) of the State Mandates Act, 30 ILCS 805/3.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed with:

Lydia Mills Wendt  
Deputy General Counsel  
Illinois State Labor Relations Board  
320 West Washington Street, Suite 500  
Springfield, IL 62701  
(217) 785-3155

Comments should be filed with the Deputy General Counsel within 45 days of the date of this issue of the *Illinois Register*.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None



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c) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendment begins on the next page:

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE C: LABOR RELATIONS

CHAPTER IV: ILLINOIS STATE LABOR RELATIONS BOARD/

ILLINOIS LOCAL LABOR RELATIONS BOARD

PART 1220

UNFAIR LABOR PRACTICE PROCEEDINGS

Section	
1220.10	General Statement of Purpose
1220.20	Filing of a Charge
1220.30	Appointment of Counsel
1220.40	Charge Processing and Investigation, Complaints and Responses
1220.50	Hearings
1220.60	Consideration by the Board
1220.70	Requests for Preliminary Relief
1220.80	Compliance Procedures
1220.90	Sanctions
1220.100	Unfair Labor Practice Charges Involving Fair Share Fees
TABLE A	"Adjusted Income" Standards for Appointment of Counsel in Unfair Labor Practice Cases

AUTHORITY: Implementing Sections 10 and 11 and authorized by Section 5(i) of the Illinois Public Labor Relations Act [5 ILCS 315/10, 11, 5(i)].

SOURCE: Emergency rule adopted at 8 Ill. Reg. 16043, effective August 22, 1984, for a maximum of 150 days; adopted at 9 Ill. Reg. 1898, effective January 25, 1985; amended at 11 Ill. Reg. 6481, effective March 27, 1987; amended at 12 Ill. Reg. 20122, effective November 18, 1988; amended at 14 Ill. Reg. 19959, effective November 30, 1990; amended at 17 Ill. Reg. 15628, effective September 13, 1993; amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1220.40 Charge Processing and Investigation, Complaints and Responses**

- a) Upon receipt of a charge, the Board or its Executive Director shall review the charge to determine whether the charge was filed in accordance with the Act. If the review reveals that the charge was not filed in accordance with the Act, the charge shall be summarily dismissed. Notice of dismissal shall state the reasons therefor, and be served upon the respondent and the charging party. If the charge is dismissed by the Executive Director of the Board, the charging party may appeal the dismissal to the Board. Notice of appeal and all supporting materials shall be filed with the General Counsel no later than 10 days after service of the notice of dismissal.
- b) The Board or its designated representative shall investigate the charge. The investigation may include an investigatory conference

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with the parties.

- 1) The charging party shall submit to the Board or its designated representative all evidence relevant to or in support of the charge. Such evidence may include documents and affidavits.
  - 2) Upon request by the Board or its designated representative, the respondent may submit a complete account of the facts, a statement of its position in respect to the allegations set forth in the charge and all relevant evidence in support of its position. Such evidence may include documents and affidavits.
  - 3) If the investigation reveals that the charge involves an issue of law or fact ~~{Ill-Rev-Stat-1997-ch-48-par-161(a)}~~ [5 ILCS 315/11(a)] sufficient to warrant a hearing, the Board or its designated representative shall issue a complaint for hearing. The complaint shall state the issues that warrant a hearing and shall be served on the respondent and the charging party.
  - 4) If the investigation reveals that there is not an issue of law or fact sufficient to warrant a hearing, the Board or its Executive Director shall dismiss the charge. Notice of dismissal shall state the reasons therefor, and be served on the respondent and the charging party. If the charge is dismissed by the Executive Director of the Board, the charging party may appeal the dismissal to the Board. Notice of appeal and all supporting materials shall be filed with the General Counsel no later than 10 days after service of the notice of dismissal. Parties may file responses to the appeal and all materials in support of the responses no later than five days after service of the appeal.
- c) Whenever a complaint for hearing is issued, the respondent must file an answer within 15 days after service of the complaint.
- 1) The answer shall include a specific admission, denial or explanation of each allegation or issue of the complaint or, if the respondent is without knowledge thereof, it shall so state and such statement shall operate as a denial. Admissions or denials may be made to all or part of an allegation but shall fairly meet the circumstances of the allegation.
  - 2) The answer shall also include a specific, detailed statement of any affirmative defenses including, but not limited to, allegations that the violation occurred more than six months before the charge was filed, that the Board lacks jurisdiction over the matter, or that the complaint fails to allege an unfair labor practice.
  - 3) Parties who fail to file timely answers shall be deemed to have admitted the material facts and legal conclusions alleged in the complaint ~~and-to-have-waived-their-rights-to-a-hearing~~. The failure to answer any allegation shall be deemed an admission of that allegation. Failure to file an answer shall be cause for the termination of the proceeding and the entry of an order of default. Filing of a motion will not stay the time for filing

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NOTICE OF PROPOSED AMENDMENT

an answer.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Gas Revenue Tax

2) Code Citation: 86 Ill. Adm. Code 470

3) Section Numbers: Proposed Action:  
470.171 New Section

4) Statutory Authority: 35 ILCS 615, 20 ILCS 2505/39b19

5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends the Department's rules concerning the Gas Revenue Tax Act to provide rules on the exemption provided by Public Act 89-0417. An exemption is provided by Public Act 89-0417 for charges made to customers who acquired contractual rights for the direct purchase of gas or gas services originating from an out-of-State supplier or source on or before March 1, 1995, except for those charges solely related to the local distribution of gas by a public utility.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create a State Mandate, nor does it modify any existing State Mandates.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

Terry D. Charlton  
Associate Counsel  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62794  
Phone: (217) 782-6996

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Any small business, small municipality, or not-for-profit corporation that is subject to the Gas Revenue Tax Act.

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

B) Reporting, bookkeeping or other procedures required for compliance: Minimal recordkeeping will be required. Entities subject to the Gas Revenue Tax Act will be required to retain certification presented by customers who qualify under the provisions of P.A. 89-0417.

C) Types of professional skills necessary for compliance: None

13) State reason(s) for this rulemaking if it was not included in either of the two (2) most recent regulatory agendas: This rulemaking was not included on either of the two most recent agendas because: It was unanticipated at the time of the last Regulatory Agenda.

The full text of the Proposed Amendment(s) begins on the next page:

DEPARTMENT OF REVENUE  
NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUE  
PART 470  
998 GAS REVENUE TAX ACT

Section  
470.101 Definitions  
470.105 Disposition of Tax Monies  
470.110 Imposition of Tax  
470.115 Effective Period of Act  
470.120 Returns  
470.125 Gross Amount of Transactions or Billings Basis of Tax  
470.130 Certificate of Registration  
470.131 Enterprise Zone Exemption  
470.135 Books and Records  
470.140 Claims to Recover Erroneously Paid Tax  
470.145 Furnishing of Gas  
470.150 Gas Sold to and by Building Operators  
470.155 Transactions in Interstate Commerce  
470.160 Sales of Gas to the United States Government  
470.165 Services Furnished The State of Illinois, its Departments, Agencies, Counties, Municipalities or Other Political Subdivisions  
470.170 Services Furnished to Religious, Scientific, Educational and Charitable Institutions  
470.171 Exemption for charges made to customers who acquired contractual rights to purchase out-of-State gas or gas services prior to March 1, 1995  
470.175 Meter Readings  
470.180 Services Furnished to Officers or Employees  
470.185 Interdepartmental Transfers  
470.190 Discounts, Penalties and Finance or Interest Charges  
470.195 Sales of Appliances, Equipment or Services Subject to Other Tax Acts

AUTHORITY: Implementing the Gas Revenue Tax Act [35 ILCS 615] and authorized by Section 39b19 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b19].

SOURCE: Gas Revenue Tax Regulations, adopted July 24, 1945; codified at 8 Ill. Reg. 8608; amended at 11 Ill. Reg. 18751, effective October 30, 1987; amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 470.171 Exemption for charges made to customers who acquired contractual rights to purchase out-of-State gas or gas services prior to March 1, 1995

- a) Beginning with charges billed on and after January 1, 1996, any charge

DEPARTMENT OF REVENUE  
NOTICE OF PROPOSED AMENDMENTS

for gas or gas services to a customer who acquired contractual rights for the direct purchase of gas or gas services originating from an out-of-State supplier or source on or before March 1, 1995, except for those charges solely related to the local distribution of gas by a public utility, is not subject to the tax imposed by the Gas Revenue Tax Act.

- b) For the purposes of this exemption, the following terms have the following meanings:

"Charges solely related to the local distribution of gas by a public utility" means all charges subject to the Gas Revenue Tax Act, other than charges for gas and those charges that are reflected in the purchased gas adjustment clauses described in Section 9-220 of the Public Utilities Act [220 ILCS 5/9-220].

"Public utility" means every corporation, company, limited liability company, association, joint stock company or association, firm, partnership or individual, their lessees, trustees, or receivers appointed by any court whatsoever that owns, controls, operates or manages, within this State, directly or indirectly, for public use, any plant, equipment or property used or to be used for or in connection with, or owns or controls any franchise, license, permit or right to engage in the conveyance of gas by pipeline.

"Qualifying contract" means a document under which the customer of an Illinois public utility acquired contractual rights for the purchase of gas or gas services originating from an out-of-State supplier or source on or before March 1, 1995.

"Transportation account" means an account maintained by a public utility to transport gas for a customer who has purchased the gas from a source other than the public utility.

- c) To claim the exemption described in subsection (a) of this Section, a taxpayer must maintain in its books and records:

- 1) A written certification signed by the customer stating that:
  - A) the customer had acquired contractual rights for the direct purchase of gas or gas services originating from an out-of-State supplier or source on or before March 1, 1995; and
  - B) the customer is purchasing the gas or gas services for its own use and that the gas or gas services will not be transferred to another entity.
- 2) Except as provided in subsection (d) of this Section, a copy of the qualifying contract showing that the customer had acquired contractual rights for the direct purchase of gas or gas services originating from an out-of-State supplier or source on or before

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

March 1, 1995.

d) The Department has determined that customers who had transportation accounts with public utilities on or before March 1, 1995 almost certainly purchased gas from an out-of-State supplier or source on or before March 1, 1995. This determination is based upon the amount of gas produced from Illinois wells compared to the amount of gas consumed in Illinois. Consequently, a customer who had a transportation account with a public utility on or before March 1, 1995 need not provide a copy of a qualifying contract along with the certification described in subsection (c)(1) of this Section. Such a customer need only reference the qualifying transportation account in the certification.

e) The exemption is available only with respect to the customer that acquired contractual rights for the direct purchase of gas or gas services originating from an out-of-State supplier or source on or before March 1, 1995. A qualifying customer must be the same legal entity which acquired the qualifying contractual rights. Related entities, such as subsidiaries or holding companies, may not claim the exemption based upon the qualifying contract of a separate legal entity.

f) If a customer that acquired qualifying contractual rights prior to March 1, 1995 has multiple gas or gas service accounts, then the exemption is available to all of that customer's gas and gas service accounts.

g) If the exemption is claimed by a taxpayer, then that taxpayer will be liable for tax, penalty, and interest if it is later determined that the exemption was not available. For example, if a taxpayer claims the exemption based on an invalid certification from a customer, then the Department will recover the tax and any applicable penalty and interest from the taxpayer. The Department is unable to assess a customer who has given an invalid certification because customers do not incur Gas Revenue Tax liability and there is no Gas Revenue Use Tax. Consequently, when the exemption has been improperly claimed and is disallowed, the Department will assess the taxpayer and the taxpayer is authorized to make an additional charge to the customer under Section 9-222 of the Public Utilities Act [220 ILCS 5/9-222].

(Source: Added at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## AUDITOR GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

1) Heading of the Part: Code of Regulations2) Code Citation: 74 Ill. Adm. Code 4203) Section Numbers: Adopted Action:

420.10 Amend  
 420.110 Amend  
 420.120 Amend  
 420.130 Amend  
 420.140 Amend  
 420.210 Amend  
 420.220 Amend  
 420.230 Amend  
 420.240 Amend  
 420.250 Amend  
 420.310 Amend  
 420.320 Amend  
 420.330 Repeal  
 420.340 Repeal  
 420.410 Amend  
 420.420 Amend  
 420.610 Amend  
 420.620 Amend  
 420.630 Amend  
 420.640 Amend  
 420.710 Amend  
 420.720 Amend

4) Statutory Authority: Subparts A and B implementing and authorized by Section 3-7 of the Illinois State Auditing Act [30 ILCS 5/3-7]; Subpart C implementing and authorized by Sections 3-8(b), 3-8(c), and 3-8(d) of the Illinois State Auditing Act [30 ILCS 5/3-8(b), 3-8(c), and 3-8(d)]; Subpart D implementing and authorized by Section 3-6 of the Illinois State Auditing Act [30 ILCS 5/3-6]; Subpart E implementing and authorized by Section 3-8 of the Illinois State Auditing Act [30 ILCS 5/3-8]; Subpart G implementing and authorized by Sections 3-7, 3-8(a), and 3-11 of the Illinois State Auditing Act [30 ILCS 5/3-7, 3-8(a) and 3-11]; Subpart H implementing and authorized by Sections 3-7, 3-8(c), and 3-8(d) of the Illinois State Auditing Act [30 ILCS 5/3-7, 3-8(c) and 3-8(d)].

5) Effective Date of Rulemaking: January 31, 19966) Does this rulemaking contain an automatic repeal date? No7) Does this rulemaking contain incorporations by reference? Yes8) Date Filed in Agency's Principal Office: November 13, 1995



## AUDITOR GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

- 9) Notice of Proposal Published in Illinois Register: August 25, 1995, 19 Ill. Reg. 12114
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version: Minor editing changes were made at the recommendation of the Joint Committee on Administrative Rules.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: These amendments make numerous technical and substantive changes, including: updating statutory and Illinois Administrative Code citations; making all references gender-neutral; clarifying persons to whom notice of an investigation and investigatory reports must be given; changing standards for delegation of investigatory authority; changing timeframes and procedures for receipt of written comments to report findings and recommendations; updating audit scope and standards to requirements of the Illinois State Auditing Act, generally accepted government auditing standards and other applicable requirements; providing for changes in the frequency of mandatory financial or compliance audits; providing additional procedures for maintenance of information.

- 16) Information and questions regarding these adopted amendments may be directed to:

Rebecca Patton  
Office of the Auditor General  
740 E. Ash Street  
Springfield, IL 62703  
(217) 782-6698  
TDD: (217) 524-4646  
fax: (217) 785-8222

The full text of the Adopted Amendments begins on the next page:

## AUDITOR GENERAL

## NOTICE OF ADOPTED AMENDMENT(S)

TITLE 74: PUBLIC FINANCE  
CHAPTER III: AUDITOR GENERAL

PART 420  
CODE OF REGULATIONS

## SUBPART A: STANDARDS OF CONSTRUCTION FOR REGULATIONS

Section  
420.10 Introduction  
420.20 General Provisions

## SUBPART B: DEFINITIONS

Section  
420.110 Introduction  
420.120 General Provisions  
420.130 Abbreviations  
420.140 Specific Definitions

## SUBPART C: INVESTIGATIONS

Section  
420.210 Introduction  
420.220 General Particulars  
420.230 Right to Information  
420.240 Investigative Personnel  
420.250 Investigation Procedures and Reports

SUBPART D: STANDARDS APPLICABLE TO AUDITS  
OF ILLINOIS STATE GOVERNMENTAL ORGANIZATIONS AND PROGRAMS  
AND TO COMPLIANCE AUDITS CONDUCTED BY STATE AGENCIES  
OF LOCAL AND PRIVATE AGENCIES

Section  
420.310 Introduction  
420.320 General Provisions  
420.330 Examination and Evaluation Standards (Repealed)  
420.340 Reporting Standards (Repealed)

## SUBPART E: FREQUENCY OF MANDATORY FINANCIAL OR COMPLIANCE AUDITS

Section  
420.410 Introduction  
420.420 General Provisions  
420.430 Miscellaneous Provisions

## SUBPART F: REVIEW OF RECEIPT OR COLLECTION

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## OF STATE REVENUE BY STATE AGENCIES

## Section

- 420.510 Introduction (Repealed)  
 420.520 Review of Receipt or Collection of State Revenues by State Agencies (Repealed)  
 420.530 Miscellaneous Provisions (Repealed)

## SUBPART G: MAINTENANCE OF INFORMATION

## Section

- 420.610 Introduction  
 420.620 General Provisions  
 420.630 Confidential Information  
 420.640 Disclosure and Dissemination of Information

## SUBPART H: CONSULTATIONS AND RESPONSES TO FINDINGS

## Section

- 420.710 Introduction  
 420.720 Consultations with Heads of Agencies and Individuals

AUTHORITY: Subparts A and B implementing and authorized by Section 3-7 of the Illinois State Auditing Act [30 ILCS 5/3-7]; Subpart C implementing and authorized by Sections 3-8(b), 3-8(c), and 3-8(d) of the Illinois State Auditing Act [30 ILCS 5/3-8(b), 3-8(c), and 3-8(d)]; Subpart D implementing and authorized by Section 3-6 of the Illinois State Auditing Act [30 ILCS 5/3-6]; Subpart E implementing and authorized by Section 3-8 of the Illinois State Auditing Act [30 ILCS 5/3-8]; Subpart G implementing and authorized by Sections 3-7, 3-8(a), and 3-11 of the Illinois State Auditing Act [30 ILCS 5/3-7, 3-8(a) and 3-11]; Subpart H implementing and authorized by Sections 3-7, 3-8(c), and 3-8(d) of the Illinois State Auditing Act [30 ILCS 5/3-7, 3-8(c) and 3-8(d)].

SOURCE: Rules and Regulations of the Auditor General filed March 8, 1976, effective March 18, 1976, and amended: effective April 15, 1976; effective September 1, 1976; amended at 3 Ill. Reg. 5, p. 865, effective January 27, 1979; amended at 3 Ill. Reg. 5, p. 868, effective January 27, 1979; amended at 3 Ill. Reg. 15, p. 107, effective April 12, 1979; amended at 3 Ill. Reg. 34, p. 99, effective August 20, 1979; amended at 3 Ill. Reg. 48, p. 138, effective November 29, 1979; amended at 4 Ill. Reg. 40, p. 49, effective September 19, 1980; codified at 5 Ill. Reg. 10575; amended at 6 Ill. Reg. 2587, effective March 10, 1982; amended at 7 Ill. Reg. 1216, effective February 5, 1983; amended at 7 Ill. Reg. 6475, effective May 15, 1983; amended at 7 Ill. Reg. 6481, effective May 15, 1983; amended at 8 Ill. Reg. 7214, effective May 25, 1984; amended at 8 Ill. Reg. 17244, effective September 15, 1984; amended at 14 Ill. Reg. 15327, effective September 10, 1990; amended at 15 Ill. Reg. 3429, effective March 1, 1991; amended at 20 Ill. Reg. **701**, effective **JAN 31 1996**.

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## SUBPART A: STANDARDS OF CONSTRUCTION FOR REGULATIONS

## Section 420.10 Introduction

- a) SUBJECT. This subpart establishes the standards of construction applicable to all regulations promulgated by the Office of the Auditor General (74 Ill. Adm. Code 420).  
 b) AUTHORITY. This subpart is promulgated under the authority of Section 3-7 of the Illinois State Auditing Act [30 ILCS 5/3-7] **†††††-Rev† Stat-1979-ch-15-par-303-7†**.  
 c) INCORPORATIONS. The following material is incorporated by reference and made a part of this regulation:  
 Definitions of the Office of the Auditor General **†††††-as now and hereafter amended** (Section 420. Subpart B of this Part).  
 d) EFFECTIVE DATE. This Subpart **†††††** becomes effective on March 18, 1976.

(Source: **†††††** amended at 20 Ill. Reg. **701**, effective **JAN 31 1996**.)

## SUBPART B: DEFINITIONS

## Section 420.110 Introduction

- a) SUBJECT. This Subpart **†††††** establishes the definitions of words, phrases, terms, and abbreviations used in regulations promulgated by the Office of the Auditor General.  
 b) AUTHORITY. This Subpart **†††††** is promulgated under the authority of Section 3-7 of the Illinois State Auditing Act [30 ILCS 5/3-7] **†††††-Rev† Stat-1979-ch-15-par-303-7†**.  
 c) INCORPORATIONS. The following material is incorporated by reference and made a part of this regulation:  
 Standards of Construction for Regulations of the Office of the Auditor General **†††††-as now and hereafter amended** (Subpart A of this Part **††††† Adm-Code-Part-420-Subpart-A**).  
 d) EFFECTIVE DATE. This Subpart **†††††** becomes effective March 18, 1976.

(Source: Amended at 20 Ill. Reg. **701**, effective **JAN 31 1996**.)

## Section 420.120 General Provisions

- a) DEFINITIONS ISAA. Words which are defined in the Illinois State Auditing Act [30 ILCS 5] **†††††-Rev† Stat-1979-ch-15-par-301-1-et seq†††-approved-September-20†-1979-as now and hereafter amended** have the same meanings when used in this Part **†††††** as they have in the Illinois State Auditing Act unless there is an explicit indication to

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the contrary.  
b) APPLICATION.

1) Words defined in this Subpart subpart, when used in this Part part, shall have the meanings or modifications established in this Subpart subpart unless the context clearly requires otherwise or a different definition is explicitly made applicable.

2) If a word is defined in a particular Subpart subpart, the definition given in that Subpart subpart does not necessarily apply when the defined word is used in a different Subpart subpart unless there is a specific incorporation.

(Source: Amended at 20 Ill. Reg. 701, effective JAN 31 1996)

## Section 420.130 Abbreviations

- a) C.R.G. C-RG E-Rg means Code of Regulations (74 Ill. Adm. Code Part 420).
- b) C.R.L. C-RL E-RL means Code of Rules (74 Ill. Adm. Code Part 440).
- c) IPA. IPA means the Illinois Purchasing Act--as--now--and--hereafter amended [30 ILCS 505] ††††-Rev--Stat--1979--ch--127--par--132--1-et seq--†.
- d) ISAA. ISAA means the Illinois State Auditing Act--as--now--and hereafter--amended [30 ILCS 5] ††††-Rev--Stat--1979--ch--157--par--301--1-et--seq--†.

(Source: Amended at 20 Ill. Reg. 701, effective JAN 31 1996)

## Section 420.140 Specific Definitions

- a) CODE OF REGULATIONS. Code of Regulations means the official compilation of Regulations promulgated by the Auditor General and currently in effect (74 Ill. Adm. Code 420Part-420).
- b) CODE OF RULES. Code of Rules means the official compilation of Rules promulgated by the Auditor General and currently in effect (74 Ill. Adm. Code 440).
- c) OFFICER OF THE OFFICE OF THE AUDITOR GENERAL. Officer of the Office of the Auditor General means any individual designated as a State Auditor; or any Special Assistant Auditor, Deputy Auditor, or other individual empowered by the Auditor General to act with respect to the performance of a specific audit, study, or investigation.
- d) RULEMAKING. Rulemaking means separately or in combination any processes, procedures, or activities intended to or which results in a Rule or Regulation. Rulemaking includes the adoption, amendment, modification, update, suspension, repeal, recession, or termination of a rule or regulation.

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e) STATE AUDITOR. State Auditor means a State payroll employee of the Office of the Auditor General who has been authorized to conduct audits, investigations, and studies by the Auditor General, and who has otherwise been appointed State Auditor in accordance with the personnel rules of the Office of the Auditor General.

f) WORD. Word includes terms, phrases, and abbreviations.

(Source: Amended at 20 Ill. Reg. 701, effective JAN 31 1996)

## SUBPART C: INVESTIGATIONS

## Section 420.210 Introduction

a) SUBJECT. This Subpart subpart deals with the procedures to be followed during investigations conducted by the Auditor General pursuant to the Illinois State Auditing Act (ISAA); standards of delegation of authority to conduct investigations to persons who are not employees of the Auditor General; consultation with heads of agencies before the issuance of reports; the opportunity for heads of agencies to respond to reports; and the opportunity for persons who may, individually, be the subject of a report to respond to findings or recommendations in the report which pertain to them.

b) AUTHORITY. Pars. 3-8(b), 3-8(c), 3-8(d) ISAA [30 ILCS 5/3-8(b), 3-8(c), and 3-8(d)] ††††-Rev--Stat--1979--ch--157--par--303--0††††-and 303-8††††.

c) REFERENCES. Section 1-17 ISAA Definition of Investigation [30 ILCS 5/1-17] ††††-Rev--Stat--1979--ch--157--par--301--1††††.  
Section 3-1 ISAA Jurisdiction of Auditor General [30 ILCS 5/3-1] ††††-Rev--Stat--1979--ch--157--par--303--1††††.  
Section 3-4 ISAA Investigations [30 ILCS 5/3-4] ††††-Rev--Stat--1979--ch--157--par--303--1††††.

Section 3-11 ISAA Maintenance of Records [30 ILCS 5/3-11] ††††-Rev--Stat--1979--ch--157--par--303--1††††.  
Section 3-12 ISAA Cooperation of State Agencies [30 ILCS 5/3-12] ††††-Rev--Stat--1979--ch--157--par--303--1††††.  
Section 3-15 ISAA Reports of Auditor General [30 ILCS 5/3-15] ††††-Rev--Stat--1979--ch--157--par--303--1††††.

d) INCORPORATIONS. The following materials are incorporated by reference and made a part of this Subpart subpart:

- 1) Standards of Construction for Regulations of the--Office--of--the Auditor--General--as--now--and--hereafter--amended (Subpart A of this Part) †74--Ill--Adm--Code--Part--420†.
- 2) Definitions (Subpart B of this Part) of the--Office--of--the Auditor General--as--now--and--hereafter--amended--†74--Ill--Adm--Code--Part--420†--Subpart-B†.



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- e) **DEFINITIONS.** When used in this Subpart subpart the term Audit Manager shall have the following meaning:  
 Audit Manager means the State Auditor state-auditor assigned by the Auditor General or the Deputy Auditor General to be the person responsible for conducting the investigation and in charge of any of the auditors Auditors participating in the investigation.
- f) **EFFECTIVE DATE.** This Subpart subpart becomes effective on April 15, 1976.

(Source: Amended at 20 Ill. Reg. 701, effective JAN 31 1996)

## Section 420.220 General Particulars

- a) **COMMENCEMENT OF INVESTIGATIONS.** An investigation after being authorized pursuant to Section 3-4 ISAA shall be commenced only upon the written direction of the Auditor General or Deputy Auditor General to an Audit Manager.
- b) **NOTICE OF INVESTIGATION TO PARTIES.**
- 1) The Audit Manager shall make a reasonable attempt to notify each party who is named in the resolution directing the investigation of the existence of the investigation and provide as part of this notice: a copy of the resolution directing the investigation; a copy of the Audit Manager's his assignment by the Auditor General; a copy of the agency notification to employees; and a copy of this regulation.
  - 2) Reasonable attempt to notify a party shall be accomplished:
    - A) If the party is an agency or artificial person, by
      - i) personal delivery to an officer or lawful agent; or
      - ii) certified U.S. mail, return receipt requested, addressed to an officer or lawful agent at any office of the agency or artificial person.
    - B) If the party is a natural person, by
      - i) personal delivery; or
      - ii) certified U.S. mail, return receipt requested, addressed to the person at the person's his last known address or principal place of business or employment.
  - 3) For purposes of this subsection (b), the phrase a "party who is named in the resolution" means any individual, business, partnership, agency, corporation or other entity that the resolution specifically requires the Auditor General to investigate and from whom the Auditor General is required to obtain information during the course of conducting the investigation.
- c) **AGENCY NOTIFICATION TO EMPLOYEES.**
- 1) Within seven (7) days after the receipt of a notification of investigation, the chief executive officer (or person acting in his or her stead) of any agency involved in the investigation

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shall sign and cause to be circulated to those persons designated by the Audit Manager and such other persons as determined by the agency head, the Notice to Cooperate provided by the Office of the Auditor General. A signed copy of the notice shall also be given to the Audit Manager.

- 2) This notice shall be in the following form:

NOTICE TO COOPERATE IN INVESTIGATION  
 CONDUCTED BY THE AUDITOR GENERAL

Please be advised that                      has by resolution directed the Auditor General to investigate (set out specific language of resolution).

The Illinois State Auditing Act provides that the officers and employees of our agency shall make available to the Auditor General or the Auditor General's his designated representative any record or information requested and shall provide for examination or copying all records, accounts, papers, reports, vouchers, correspondence, books and other documentation in the custody of the agency including information stored in electronic data processing systems which is related to or within the scope of the investigation described above.

(Agency Head may include a paragraph to remind personnel of statutory requirements of confidentiality, if any, that apply to the agency.)

Please extend your complete cooperation.

Agency Head

- d) **AGENCY RESPONSE TO NOTIFICATION.** Within seven (7) days after receipt of the Notice of Investigation as provided in subsection (b) above 74 ~~III--Adm--Code--Section--420-220(b)~~, the chief executive officer or the person acting in his or her stead shall notify the Audit Manager of the name of some knowledgeable employee who shall be available to aid the Auditor General's representatives in locating material under the agency's control or in determining which agency personnel or other persons have knowledge of any matters within the scope of the investigation.
- e) **APPEAL TO THE AUDITOR GENERAL.** When a controversy arises during the course of an investigation between the Audit Manager and a person named in the resolution or an agency involved in an investigation, the controverted issue may be appealed to the Auditor General by the person named or the agency head by submitting a concise statement of the controverted issue in writing to the Auditor General at the

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Auditor General's ~~his~~ office in Springfield, Illinois. The Auditor General shall issue ~~a his~~ written response within 5 days.

(Source: Amended at 20 Ill. Reg. ~~701~~, effective ~~January 1, 1996~~)

## Section 420.230 Right to Information

- a) AGENCY REPRESENTATION. An agency has no right to be represented by counsel in its response to an investigation. The representatives of the Auditor General shall not be required to submit to any screening of information requests or answers thereto as a condition to direct contact with agency personnel or records.
- b) INDIVIDUAL'S RIGHT TO COUNSEL. Any individual shall have the right to engage counsel who has no connection with an agency or office whose personnel or activities are the subject matter of the investigation to advise the individual on his or her legal rights. Counsel may not answer or reply for the individual.
- c) USE OF PROCESSES.

1) When requested by the Audit Manager, the Auditor General or Deputy Auditor General may issue subpoenas as desirable during the conduct of an investigation.

2) If an individual associated with the Office of the Auditor General is participating in an investigation and is not a State Auditor, then the Auditor General may, in his or her discretion, empower the individual to administer oaths and affirmations, and take depositions and testimony during the course of a specific investigation, by delegating such authority in writing.

d) ENFORCEMENT. Upon notification by the Audit Manager of an unreasonable delay or of a failure to respond to a request for information or process relating to the investigation, the Auditor General or Deputy Auditor General may initiate appropriate legal proceedings to secure compliance.

(Source: Amended at 20 Ill. Reg. ~~201~~, effective ~~January 1, 1996~~)

## Section 420.240 Investigative Personnel

a) IDENTIFICATION.

1) State Auditors will possess the official identification portfolio supplied and issued by the Auditor General. This identification will verify that the issuer is a State Auditor of the Office of the Auditor General.

2) Special Assistant Auditors assigned to a particular investigation will be issued documentation substantiating their authority ~~a special identification portfolio~~. The documentation ~~identification in this portfolio~~ will identify the Special

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Assistant Auditor and indicate the Special Assistant Auditor's ~~his~~ powers and authorities and the investigation to which they apply.

- b) STANDARDS FOR DELEGATION OF INVESTIGATORY POWERS TO PERSONS NOT EMPLOYED OF THE AUDITOR GENERAL. Any person who is ~~licensed by the State of Illinois as a Certified Public Accountant Attorney Professional Engineer or a person licensed by the Department of Registration and Education of the State of Illinois shall be~~ qualified by education or experience may be appointed a Special Assistant Auditor to conduct or assist in a specific investigation. The appointment shall be by written contract which shall provide that it may be cancelled by the Auditor General at any time without cause. No person who has been employed or associated within the past four (4) years with an agency, entity or individual named or involved in the investigation, shall be employed in the investigation.

(Source: Amended at 20 Ill. Reg. ~~701~~, effective ~~January 1, 1996~~)

## Section 420.250 Investigation Procedures and Reports

a) TIME DURING WHICH INVESTIGATION IS TO BE CONDUCTED. Any person authorized to participate on behalf of the Auditor General in an investigation shall make every effort to assure that the orderly and efficient conduct of agency activities are subject to a minimum amount of disruption. Interviewing of personnel and examination of records and materials in the possession of agencies or individuals shall be confined to normal business hours unless otherwise agreed upon.

b) FURNISHING OF WORK AREA. An agency involved in an investigation, shall make reasonable effort to furnish the Auditor General's representatives a private area to carry out their duties.

c) PRIVACY. In the discretion of any auditor assigned to an investigation, or at the request of the individual being questioned, any part of the investigation may be held outside the presence of all persons other than representatives of the Office of the Auditor General; the individual being questioned; and the individual's counsel, if the individual desires to have his or her counsel present.

d) SAFEGUARDING OF INFORMATION DURING INVESTIGATION. All information obtained during the conduct of an investigation shall be held in strict confidence by the Office of the Auditor General and the personnel of the agencies or offices involved in the investigation during the conduct of an investigation except as provided in subsections (e) and (f) below and Section 420.630(b)(1) of this Part 74--~~Adm. Code Sections 420-250(e) and (f)~~. This Section ~~section 74-111-Adm. Code Sections 420-250(e) and (f)~~ shall not prohibit the communication of information among persons involved in the investigation in furtherance of the investigation.

e) 1) When the Audit Manager has determined the proposed findings and

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recommendations to be included in an investigation report, the Audit Manager he shall forward to each individual who was the subject of an investigation report those proposed findings and recommendations which relate to him or her. After the receipt of these materials an individual shall have 21 25 days in which to direct to the Auditor General any written comments the individual may have concerning the findings or recommendations involving him or her. Copies of an individual's written comments will be included in the final version of the investigation report if they are received in the Springfield Office of the Auditor General on or before the 21st 25th day after the materials being commented upon were received by the individual.

- 2) Any written comments received after the period indicated above will be handled as follows: A) If the authorized distribution of the final investigation report to which the comments apply has been accomplished, then a copy of the comments will be immediately forwarded to all parties authorized to receive copies of the final investigation report. B) If the authorized distribution of the final investigation report to which the comments apply has not been accomplished, then a copy of the comments will be forwarded with the final investigation report when the authorized distribution is made. C) In all cases the written comments will be maintained in the official files of the Office of the Auditor General and thereafter dispensed with copies of the investigation report to which they pertain.
- 3) The Auditor General, in his or her sole discretion, may extend any time period or deadline specified in this Section.
- 4) For purposes of this subsection, the term "individual" means any person, business, partnership, corporation or other entity, other than a State agency, that is specifically named in a recommendation contained in an investigation report.

## f) RESPONSE TO REPORT BY HEADS OF AGENCIES.

- 1) When the Audit Manager has determined the proposed findings and recommendations to be included in an investigation report, the Audit Manager he shall forward a copy to the head of each agency involved in the investigation. Upon receiving a copy of the proposed findings and recommendations, an agency head (or his or her designee) shall have

- A) 1) 7 days from receipt of the proposed findings and recommendations in which to request a conference (if he or she desires one) with the Office of the Auditor General concerning the proposed findings and recommendations, and shall be available for such conferences during the 10-day period following the date of the request. All requested conferences shall be completed within 14 days from the agency's receipt of the proposed findings and recommendations this is

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day period.

- ii) Within 3 days of the close of the conference, the Office of the Auditor General shall forward to the agency head any changes in the proposed findings and recommendations.
- B) 21 25 days from receipt of the proposed findings and recommendations in which to deliver direct to the Auditor General any written comments the agency may have concerning the findings and recommendations involving the agency.
- 2) A copy of an agency's written comments will be included in the final version of the investigation report if they are received in the Springfield Office of the Auditor General on or before the 21st 25th day after the agency's receipt of the proposed findings and recommendations after the materials being commented upon were received by the agency.
- 3) In the absence of a written response from the agency, within 21 25 days from the receipt by the agency head of the proposed findings and recommendations, the investigation report may be submitted without response. If no conference was held, the reason therefore shall be included in the audit workpapers with the report. Any written comments received after the period indicated above A) If the authorized distribution of the comments apply has been accomplished, then a copy of the comments will be immediately forwarded to all parties authorized to receive copies of the final investigation report. B) If the authorized distribution of the final investigation report to which the comments apply has not been accomplished, then a copy of the comments will be forwarded with the final investigation report when the authorized distribution is made. C) In all cases the written comments will be maintained in the official files of the Office of the Auditor General and thereafter dispensed with copies of the investigation report to which they pertain.
- 4) The Auditor General, in his or her sole discretion, may extend any time period or deadline specified in this Section.
- g) INVESTIGATION REPORTS. Upon completion of the investigation, the Auditor General will issue a report and submit copies in accordance with the provisions of Section 3-4 ISAA and maintain the records in accordance with the provisions of Section 3-11 ISAA and the regulation promulgated in relation thereto.

(Source: Amended at 20 Ill. Reg. 7.1), effective JAN 31 1986)

## SUBPART D: STANDARDS APPLICABLE TO AUDITS

OF ILLINOIS STATE GOVERNMENTAL ORGANIZATIONS AND PROGRAMS  
AND TO COMPLIANCE AUDITS CONDUCTED BY STATE AGENCIES  
OF LOCAL AND PRIVATE AGENCIES



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## Section 420.310 Introduction

## a) SUBJECT. Subject:

- 1) This Subpart subpart establishes the audit standards applicable to:

A) audits conducted pursuant to the authority of the Auditor General, and

B) compliance audits conducted by State agencies of local government agencies or private agencies which are grantees or recipients of public funds of the State or of federal funds through projects administered by a State agency.

- 2) The standards established in this Subpart subpart concern the scope and quality of the audit work and prescribe the contents and attributes of an acceptable audit report.

b) AUTHORITY. Authority: This regulation is promulgated pursuant to the authority of Section 3-6 ISAA [30 ILCS 5/3-6].

c) INCORPORATIONS. incorporations: The following materials are incorporated by reference and made a part of this regulation:

- 1) Standards of Construction for Regulations (Subpart A of this Part) of the Office of the Auditor-General, as now and hereafter amended (Subpart-A).

- 2) Definitions (Subpart B of this Part) of the Office of the Auditor-General, as now and hereafter amended (74-III-Adm-Code-Part 4207-Subpart-B).

## d) REFERENCES. References:

Section 4-3-3 ISAA;

Section 3-7 ISAA.

Section 2-12(c) ISAA.

- e) EFFECTIVE DATE. Effective--Date: This Subpart subpart becomes effective on September 19, 1980.

(Source: Amended at 20 Ill. Reg. 701, effective JAN 31 1986)

## Section 420.320 General Provisions

## General Standards-----Scope.

## a) SCOPE.

- 1) The full scope of an audit conducted by the Auditor General may encompass:

A) An examination of financial transactions, accounts and reports;

B) An evaluation of compliance with applicable laws and regulations and conformity with applicable fiscal and business practices;

C) A review of efficiency and economy in the use of resources and soundness of managerial and other operational aspects;

D) A review to determine whether intended program results are

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## effectively achieved; and:

- E) A review of the controls and integrity associated with computerized information systems.

- 2) The scope for a particular audit conducted by the Auditor General shall be:

A) That prescribed by Section 1-13 of the Illinois State Auditing Act and by the Rules of the Office of the Auditor General (74 Ill. Adm. Code 440.Subpart C) (74-III-Adm-Code-Part-4407-Subpart-C) for audits conducted pursuant to the provisions of Sections 3-1 and Section 3-2 of the Illinois State Auditing Act;

B) That prescribed by Section 1-13 of the Illinois State Auditing Act for audits conducted pursuant to the Regulations of the Office of the Auditor General (74-III-Adm-Code-Part-4207-Subpart-B-Section 420.420(b) of this Part);

C) That specified by the Regulations of the Office of the Auditor General (74-III-Adm-Code-Section 420.420(c)(2) of this Part) for audits conducted pursuant to Section 420.420(c)(1) of such Regulations;

D) That specified by an authorizing resolution approved by the Legislative Audit Commission or by either House of the General Assembly for audits conducted pursuant to the provisions of Sections Section 3-2 and 3-4 of the Illinois State Auditing Act;

E) That specified by the terms of the agreement for reimbursable federal audits conducted pursuant to the provisions of Section 3-3A 3-2 of the Illinois State Auditing Act; and

F) That specified by the Auditor General in a notice provided to the Legislative Audit Commission for audits conducted pursuant to Section 3-3 of the Illinois State Auditing Act; and

G) That specified by the terms of the engagement for change-over audits conducted pursuant to Section 3-2.1 of the Illinois State Auditing Act.

- 3) The scope for a particular audit conducted by a State agency (other than the Office of the Auditor General) of a local or private agency shall be that specified by the terms of the agreement making the grant or award of funds to the local or private recipient agency. However, all such audits shall at a minimum comply with the requirements of subsection (b) below, determine:

A) Whether the addressee's records--and--accounting--system--are adequate to meet all reporting requirements;

B) Whether the addressee expended--the grant or award funds--in accordance with the terms of the grant or award agreement;

C) Whether all specified recipient eligibility requirements

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- were met;
- b) Whether the addressee complied with all specified matching or in-kind contribution requirements;
- b) Whether the addressee complied with all specified maintenance of effort requirements;
- b) Whether the addressee expended the grant or award funds in accordance with applicable laws, rules, and regulations; and
- b) Whether the addressee complied with specified reporting requirements.

b) GENERAL, FIELDWORK AND REPORTING STANDARDS. All audits subject to the provisions of the Illinois State Auditing Act and regulations issued thereunder shall be conducted in accordance with standards applicable to the audit engagement, which may include: generally accepting auditing standards (GAAS) issued by the American Institute of Certified Public Accountants, Inc. (AICPA) and other relevant Statements on Auditing Standards (SAS) issued by the Auditing Standards Executive Committee; generally accepted government auditing standards, as embodied in Government Auditing Standards: 1994 Revision (GAS) issued by the Comptroller General of the United States (effective for financial audits of periods ending on or after January 1, 1995, and for performance audits beginning on or after January 1, 1995); and the federal Single Audit Act of 1984, codified at 31 U.S.C. 7501-7507, and circulars implementing that Act issued by the Office of Management and Budget (OMB), including Circulars A-128 and A-133 establishing requirements for, respectively, single audits of governments and of non-profit and educational institutions. Copies of GAAS and SAS may be obtained from the AICPA Circulation Department, P.O. Box 2208, Jersey City, NJ 07303-9948. Copies of GAS may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401 (stock number 020-000-00-265-4). Copies of OMB circulars may be obtained from the Financial Management Division, Office of Management and Budget, Washington, D.C. 20503. This incorporation by reference does not include any later amendments or editions. The auditors assigned to perform the audit must collectively possess adequate professional proficiency for the tasks required in all matters relating to the audit work the individual auditors shall maintain an independent attitude.

d) Due professional care is to be used in conducting the audit and in preparing related reports.

(Source: Amended at 20 Ill. Reg. 701, effective JAN 31 1996)

## Section 420.330 Examination and Evaluation Standards (Repealed)

EXAMINATION AND EVALUATION STANDARDS-----Abb-AUDITS-  
a) Work is to be adequately planned.

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- b) Assistants are to be properly supervised;
- c) Sufficiently competent and relevant evidence is to be obtained and documented to afford a reasonable basis for the auditor's opinion on judgments, conclusions and recommendations;

(Source: Repealed at 20 Ill. Reg. 701, effective JAN 31 1996)

## Section 420.340 Reporting Standards (Repealed)

## Reporting Standards-----All Audits-

- a) Distribution:
- 1) Written reports on audits conducted by the Auditor General shall be distributed:
- A) In the manner provided and to the persons specified in Section 3-14 of the Illinois State Auditing Act;
- B) To all members of the legislative leadership; and
- C) In the manner provided to any additional persons or entities specified by any authorizing resolution adopted by the legislative audit committee or any House of the General Assembly.
- 2) Written reports on audits conducted by a State agency other than the Office of the Auditor General of a local or private agency shall be distributed:
- A) To the agency audited;
- B) To the State agency conducting, requiring, or arranging for the audit; and
- C) To other officials responsible for taking action on the results of the audit.
- b) Timeliness. Reports are to be issued on or before the date specified by resolution, if any, and in any event, as promptly as possible so as to make the information available for timely use by management and by legislative officials.
- c) Content:
- All reports shall:
- 1) Clearly explain the scope and objectives of the audit;
- 2) Be as concise as possible but at the same time clear and complete enough to be understood by the users;
- 3) Present factual matter accurately, completely, and fairly;
- 4) Present findings and conclusions objectively and in language as clear and simple as the subject matter permits;
- 5) Include only factual information, findings, and conclusions that are adequately supported by enough evidence in the auditor's working papers to demonstrate or prove when called upon the basis for the matters reported and their correctness and reasonableness. Detailed supporting information should be included in the report to the extent necessary to make a convincing presentation of information, findings, and conclusions.

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based-on-statistical--or--other--systematic--inference--may--be included, provided they are accompanied by a clear statement--as to--the--major--underlying assumptions and reasonable alternative conclusions?

6) include, when possible, recommendations--for--actions--to--effect improvements in problem areas noted in the audit and to otherwise make improvements in operations, information on underlying causes of problems reported should be included to assist in implementing or devising corrective actions?

7) Present critical comments in balanced perspective recognizing any unusual difficulties--or--circumstances--faced--by--the--operating officials concerned?

8) Identify and explain issues and questions needing further study and consideration?

9) When appropriate--to--the--scope--of--the--audit--include recognition of noteworthy accomplishments, particularly when management improvements in one program or activity may be applicable elsewhere?

10) Include recognition of the views of responsible officials of the organization, program, function, or activity audited--on--the auditor's findings--conclusions, and recommendations as provided (74 Ill. Adm. Code 420, Subpart H)?

11) State whether any significant pertinent information has been omitted, the nature of such information and the reason for its omission.

(Source: Repealed at 20 Ill. Reg. 701, effective JAN 31 1996)

## SUBPART E: FREQUENCY OF MANDATORY FINANCIAL OR COMPLIANCE AUDITS

## Section 420.410 Introduction

a) SUBJECT. This Subpart subpart designates the frequency with which specific agencies will be subject to financial or compliance audits by the Office of the Auditor General.

b) AUTHORITY. Section 3-8, ISAA [30 ILCS 5/3-8] (Ill. Rev. Stat. 1979 ch. 157, par. 303-8).

c) INCORPORATIONS. The following materials are incorporated by reference and made a part of this Subpart subpart:

1) Standards of Construction for Regulations (Subpart A of this Part), of the Office of the Auditor General, as now and hereafter amended (74 Ill. Adm. Code Part 420, Subpart A);

2) Definitions (Subpart B of this Part), of the Office of the Auditor General, as now and hereafter amended (74 Ill. Adm. Code Part 420, Subpart B);

d) REFERENCES. Section 3-2 ISAA, Mandatory and Directed Post Audits [30 ILCS 5/3-2] (Ill. Rev. Stat. 1979, ch. 157, par. 303-2).

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e) EFFECTIVE DATE. This Subpart subpart becomes effective on March 18, 1976.

(Source: Amended at 20 Ill. Reg. 701, effective JAN 31 1996)

## Section 420.420 General Provisions

a) STANDARD AUDIT PERIOD. Except as established in this Subpart all agencies for which the Auditor General is required to conduct a financial and compliance audit will be so audited at least once every two years.

b) AGENCIES TO BE AUDITED YEARLY. The Auditor General shall annually file a list with the Legislative Audit Commission of all agencies for which a mandatory financial and compliance audit shall be conducted yearly. The following agencies or subunits thereof shall be subject to a financial and compliance audit at least once each year:

Community College of East-St.-Louis  
Comptroller---State-General-Accounts  
Department-of-the-Lottery  
East-St.-Louis-Development-Authority  
Farm-Development-Authority  
Governor's-Council-on-Health-and-Physical-Fitness-(including Prairie-State-Games)  
Illinois-Community-Development-Finance-Corporation  
Illinois-Development-Finance-Authority  
Illinois-Educational-Facilities-Authority  
Illinois-Export-Development-Authority  
Illinois-Health-Facilities-Authority  
Illinois-Housing-Development-Authority  
Illinois-Independent-Higher-Education-Loan-Authority  
Illinois-State-Employees-Deferred-Compensation-Plan  
State-Board-of-Investment

State-Treasurer---State-General-Accounts-Only

Toll-Highway-Authority

c) BILLS AND FINANCIAL STATEMENT OR COMPLIANCE AUDITS.

1) The Auditor General shall annually file a list with the Legislative Audit Commission of all agencies subject to a yearly financial statement audit. The following agencies shall be subject to a limited financial or compliance audit as defined in subsection (c) of this Section in each year that the agency is not subject to a regular financial and compliance audit:

Board-of-Governors---Cooperative-Computer-Center  
Capital-Development-Board  
Chicago-State-University  
Chicago-State-University-Foundation  
Chicago-Technology-Park  
Department-of-Administrative-Services---Communications-Revolving



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Fund- State-Garage-Revolving-Fund-Office-Supplies-Revolving-Fund  
 and-the-Paper-and-Printing-Revolving-Fund  
 Department-of-Corrections-----Correctional-Industries-----Working  
 Capital-Revolving-Fund  
 Department-of-Employment-Security  
 Department-of-Public-Aid  
 Department-of-Revenue  
 Department-of-Transportation  
 Eastern-Illinois-University  
 Eastern-Illinois-University-Alumni-Association  
 Eastern-Illinois-University-Foundation  
 General-Assembly-Retirement-System  
 Governors-State-University  
 Governors-State-University-Alumni-Association  
 Governors-State-University-Foundation  
 Illinois-Educational-Consortium-for-Computer-Services  
 Illinois-Mathematics-and-Science-Academy  
 Illinois-State-Board-of-Education  
 Illinois-Student-Assistance-Commission-----Revenue-Bonds  
 Illinois-State-University  
 Illinois-State-University-Foundation  
 Judges-Retirement-System  
 Northeastern-Illinois-University  
 Northeastern-Illinois-University-Foundation  
 Northern-Illinois-University  
 Northern-Illinois-University-Alumni-Association  
 Northern-Illinois-University-Foundation  
 Prairie-State-2000-Fund  
 Sangamon-State-University  
 Sangamon-State-University-Alumni-Association  
 Sangamon-State-University-Foundation  
 Secretary-of-State  
 Southern-Illinois-University  
 Southern-Illinois-University-Alumni-Association  
 Southern-Illinois-University-Foundation  
 State-Employees-Retirement-System  
 State-Universities-Retirement-System  
 Teachers-Retirement-System  
 University-of-Illinois  
 University-of-Illinois-Alumni-Association  
 University-of-Illinois-Foundation  
 Western-Illinois-University  
 Western-Illinois-University-Foundation  
 Western-Illinois-University-Foundation

- 2) A financial statement audit shall mean an audit of the financial statements conducted in accordance with generally accepted government auditing standards. Generally accepted government auditing standards are contained in Government Auditing Standards: 1994 Revision issued by the Comptroller General of

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the United States and for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401 (stock number 020-000-00-265-4). A--limited--financial--or compliance--audit--shall--mean--an--audit--limited--to--the--following:

A) An--examination--of--agency--financial--statements--made--in accordance--with--generally--accepted--auditing--standards--to determine--whether--the--financial--statements--of--the--agency--are fairly--presented--including:

1) Testing--of--the--records--books--and--accounts--of--the audited--agency--to--determine--whether--they--accurately reflect--its--financial--and--fiscal--operations;

2) Testing--whether--the--audited--agency--is--maintaining effective--accounting--control--over--revenues, obligations, expenditures, assets and liabilities;

B) Reviewing--the--collection--of--revenue--pursuant--to--Section--3-10 ISAA--and--the--regulations--promulgated--thereunder;

C) ADMINISTRATION. In order to adjust workloads, respond to future audit needs and priorities, comply with federal or State laws and regulations, assist in rendering an opinion on the statewide financial statements, or and maintain an audit firm rotation program, the Auditor General, if necessary, may adjust the audit frequency of any program for the purpose of implementing a needed transition program. The Auditor General shall quarterly notify the Legislative Audit Commission of any changes to the audit frequency of any program.

(Source: Amended at 20 Ill. Reg. 11, effective JAN 31 1996)

## SUBPART G: MAINTENANCE OF INFORMATION

## Section 420.610 Introduction

- a) SUBJECT. This Subpart establishes the standards concerning the maintenance, availability, and dissemination of information which is a part of or under the control of the Office of the Auditor General.
- b) AUTHORITY. Section 3-7 ISAA [30 ILCS 5/3-7] (Rev. Stat. 1979, ch. 157, par. 303-7). Section 3-8(a) ISAA [30 ILCS 5/3-8(a)] (Rev. Stat. 1979, ch. 157, par. 303-8(a)). Section 3-11 ISAA [30 ILCS 5/3-11] (Rev. Stat. 1979, ch. 157, par. 303-11). REFERENCES. Section 2-11 ISAA, Special Assistant Auditors [30 ILCS 5/2-11] (Rev. Stat. 1979, ch. 157, par. 302-11). Section 3-4 ISAA, Investigations [30 ILCS 5/3-4] (Rev. Stat. 1979, ch. 157, par. 303-4).

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Section 3-14 ISAA, Audit Reports [30 ILCS 5/3-14] ~~§§§--Rev.--Stat--~~  
~~1979--ch--15--par--303-14.~~

Section 6-1 ISAA, Effect on Other Laws [30 ILCS 5/6-1] ~~§§§--Rev--~~  
~~Stat--1979--ch--15--par--306-1.~~

d) INCORPORATIONS. The following materials are incorporated by reference and made a part of this Subpart ~~subpart~~:

- 1) Standards of Construction for Regulations (Subpart A of this Part) ~~of the Office of the Auditor General, as now and hereafter amended--(74-III-Adm--Code--Part--4207-Subpart-A)--~~
- 2) Definitions (Subpart B of this Part). ~~of--the--Office--of--the Auditor--General--as--now--and--hereafter--amended--(74-III-Adm--Code--Part--4207-Subpart-B)--~~

e) EFFECTIVE DATE. This Subpart ~~subpart~~ becomes effective on April 16, 1979.

(Source: Amended at 20 Ill. Reg. 1701, effective JAN 31 1996)

## Section 420.620 General Provisions

a) AVAILABILITY OF INFORMATION. Except as provided in ~~74-III-Ad~~ ~~Code~~ Section 420.630 of this Part, all information maintained by the office of the Auditor General shall be public information and shall be available to the public as provided by this Subpart ~~subpart~~.

b) SUBPOENA OF EMPLOYEES.

- 1) Any employee or agent of the Office of the Auditor General who is served with a subpoena requiring the disclosure of information or the production of any document which is classified confidential shall appear as required by the subpoena and shall respectfully decline to disclose the information or produce any document called for basing the refusal on the requirement of this Section ~~section~~, unless the person subpoenaed has a written authorization permitting the release of the information or production of the document requested.

2) The authorization required by this Section ~~section~~ may be issued only by the Auditor General, Deputy ~~Assistant~~ Auditor General, or the ~~Chief Legal~~ ~~General~~ Counsel of the Office of the Auditor General. An authorization may be issued only if the release of the information:

- A) would not contravene any statute;
  - B) would not interfere with an ongoing audit or investigation; or
  - C) would not unreasonably interfere with an individual's right of privacy.
- 3) In addition, information of other agencies which is confidential by or pursuant to law shall not be disclosed by the Office of the Auditor General, unless:
- A) the information is not available from the officially

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authorized custodian; and

B) the officially authorized custodian consents to the release.

c) SUBPOENA OF CONTRACTORS.

- 1) Any Special Assistant Auditor or other contractor of the Office of the Auditor General who is served with a subpoena requiring the disclosure of information or the production of any document which is classified confidential and which was obtained or created in the exercise of audit authority delegated by the Auditor General pursuant to the ISAA shall appear as required by the subpoena and shall respectfully decline to disclose the information or produce any document called for basing the refusal on the requirement of this Section, unless the person subpoenaed has a written authorization permitting the release of the information or production of the document requested.

2) The authorization required by this Section may be issued only by the Auditor General, Deputy Auditor General, or the Chief Legal Counsel of the Office of the Auditor General. An authorization may be issued only if the release of the information:

- A) would not contravene any statute;
- B) would not interfere with an ongoing audit or investigation; or
- C) would not unreasonably interfere with an individual's right of privacy.

(Source: Amended at 20 Ill. Reg. 1701, effective JAN 31 1996)

## Section 420.630 Confidential Information

a) STATUTORY. All information maintained by the office which was confidential by or pursuant to law when secured by the Auditor General shall be maintained in accordance with Section ~~section~~ 6-1 of the Illinois State Auditing Act [30 ILCS 5/6-1] ~~§§§--Rev.--Stat--19097 par--306-1~~ and other applicable law.

b) INFORMATION RELATED TO CURRENT WORK.

- 1) Information not otherwise confidential, but acquired or developed as part of an ongoing audit, investigation, study, or inquiry shall be classified confidential until the conclusion of the audit, investigation, study, or inquiry to which the information pertains. The Auditor General may release such information only to:

- A) persons or entities named in the audit, investigation, study, or inquiry to which the information pertains;
- B) governmental agencies with whom the Auditor General ~~he~~ is jointly conducting or co-operating on an audit, to the extent necessary for the conduct of the audit;
- C) prosecutorial offices and sworn law enforcement agencies if approved by the Auditor General but subject to subsection

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- (b)(3) of this Section; and-
- D) current or potential contractors, but only on a need to know basis, for specific audit purposes.
- 2) The issuance of the final report shall establish the conclusion of the audit, investigation, study, or inquiry which is the subject of the report, and all information acquired or developed as part of such audit, investigation, study, or inquiry and classified confidential by operation of this subsection Section shall at that time become public information, unless the Auditor General provides otherwise pursuant to subsection (c) below or Section 420.640(h) of this Part.
- 3) Prosecutorial office and law enforcement agencies shall not obtain through, or in conjunction with, the Office of the Auditor General, data, information, or evidence which the prosecutorial office or law enforcement agency could not lawfully obtain through its own authorities.
- c) INVESTIGATION. All information and documents pertaining to an investigation conducted pursuant to Section 3-4 ISAA may ~~shall~~ be classified as confidential and, if classified as confidential, may not be disclosed outside the office except as provided in Section 420.640 Subpart C of this Part or as declared in the resolution authorizing the investigation.
- d) PERSONNEL INFORMATION. All personnel information of the Office of the Auditor General matchable to an individual concerning job performance evaluations, personal conduct, disclosure statements, personal characteristics and health shall be confidential, and may be released only as authorized by law or with the consent of the individual affected.
- e) SPECIAL ASSISTANT AUDITOR EVALUATIONS. Trade, business, and proprietary information concerning special assistant auditors and the performance evaluations of special assistant auditors shall be maintained confidential and may be disclosed to persons outside the office only as necessary to an authorized audit or inquiry concerning expenditures of our office. An audit or inquiry is authorized if it is required by law, or by formal action of the General Assembly or the Legislative Audit Commission, or by request of a designated peer review committee reviewing the Office of the Auditor General's audit process.
- f) AUDIT SELECTION CRITERIA.
- 1) Any test, standard, or specification intended for use in an audit may be maintained confidential if:
    - A) the test, standard, or specification under consideration is necessary or applicable to a future audit; and
    - B) disclosure would impair the validity or reliability of the test, standard, or specification for future application.
  - 2) Any information declared confidential under this subsection section shall be disclosed jointly to the Chair Chairman and Co-Chair Vice-Chairman of the Legislative Audit Commission at the

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joint request of the Chair Chairman and Co-Chair Vice-Chairman.  
 (Source: Amended at 20 Ill. Reg. 1701, effective JAN 31 1935)

## Section 420.640 Disclosure and Dissemination of Information

- a) INFORMATION CONFIDENTIAL WHEN ACQUIRED. Information maintained in the office of the Auditor General which was confidential by or pursuant to law when acquired may not be disseminated outside the office for any reason except by court order or as provided in Section 420.620(b) of this Part.
- b) INFORMATION ESTABLISHED CONFIDENTIAL BY THE OFFICE OF THE AUDITOR GENERAL. Information maintained by the Office of the Auditor General which the ~~our~~ office of the Auditor General has established confidential by authority of the Illinois State Auditing Act or these regulations may be released to persons outside the Office of the Auditor General only by order of the Legislative Audit Commission pursuant to Section 3-11 ISAA, by court order, or as specifically provided in this Subpart.
- c) DISSEMINATION OF OTHER STATE AGENCY INFORMATION. ~~Dissemination--of Other-State-Agency-information--~~
- 1) The Office of the Auditor General may decline to make available records or information which is available or currently controlled by the originating or controlling State agency.
  - 2) Records and information are considered "available" even if the agency or agent refuses to disseminate them, such as information which may be withheld as an exception to the Illinois Freedom of Information Act: [5 ILCS 140]. ~~(Ill--Rev--Stat--1997-ch--1167 para--401-et-seq--)~~
- d) DISSEMINATION PROCEDURES AND COPIES (PUBLIC RECORDS).
- 1) All public records of the Office of the Auditor General stored in the Springfield or Chicago offices shall be available for inspection and copying at their respective office during regular working hours.
  - 2) All public records of the Office of the Auditor General stored at locations other than the Springfield or Chicago offices shall be available for inspection and copying, but only by request and appointment through the office librarian ~~or--the-information officer or his or her designee.~~
  - 3) Any person requesting inspection or copying of public records stored at locations other than the Springfield or Chicago office may require that the records be made available at the Springfield office.
  - 4) The Auditor General may establish reasonable charges to defray the cost of any copies requested.
- e) PURGING OF ACQUIRED CONFIDENTIAL INFORMATION -- MEMORANDUM.
- 1) Records supplied to the Office of the Auditor General which are



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confidential by or pursuant to law shall be destroyed or returned to the agency from which they were obtained no later than the time of the issuance of the final report for which the information constitutes work papers, unless the Auditor General provides otherwise pursuant to subsection (h) of this Section.

- 2) However, if the records are confidential because they contain personally sensitive information which is matchable to individuals, such records need not be destroyed if the retention is approved by the Auditor General and all means of matching such information to its corresponding individuals has been destroyed. In such cases, the destruction of the means of matching the information to its corresponding individuals shall occur no later than the time of the issuance of the final report for which the information constitutes work papers.

- 3) The person destroying work papers pursuant to this Section shall place among the work papers a list of the number and type of records destroyed, identification of the source from which the records came, and an affidavit certifying how and when the records were destroyed and the fact that they were so destroyed; such certificate shall be countersigned by a State Auditor who witnessed the destruction. The affidavit shall be signed by the person destroying the workpapers and countersigned by an auditor who witnessed the destruction. Each affidavit shall be submitted to an Audit Manager for review.

- f) PURGING OF RECORDS GENERALLY. The Auditor General may destroy any records after five years after the release of the audit to which the records pertain unless a longer retention period is required by law. The Auditor General may establish schedules for the destruction and type of storage for all records relating to the Office of the Auditor General.

- g) MICROFORM-----MAINTENANCE AND REPRODUCTION OF PERMANENT RECORDS. Permanent records of the Office of the Auditor General may be kept on microform, optical image, or other reliable media film-media. The Auditor General shall maintain suitable devices for reading and copying all permanent filmed records.

- h) EXCEPTIONS TO PURGING AND DISCLOSURE OF WORKPAPERS. Exceptions to Purging and Disclosure of Workpapers: If the Auditor General or Deputy Auditor General determines, in a written document certified by the Auditor General or Deputy Auditor General, that the establishment of the working papers of a particular audit as public records or the purging of confidential information contained in the work papers of a particular audit would:
  - 1) impair the reporting or defending of the audit;
  - 2) impair future or follow-up audit work;
  - 3) compromise the integrity of the audit process; or
  - 4) disclose confidential information, because of the postponement of the purging of confidential information pursuant to the Auditor General's authority under this subsection subparagraph--(h)--of

- 1) impair the reporting or defending of the audit;
- 2) impair future or follow-up audit work;

- 3) compromise the integrity of the audit process; or

- 4) disclose confidential information, because of the postponement of the purging of confidential information pursuant to the Auditor General's authority under this subsection subparagraph--(h)--of

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this Section, then the Auditor General may postpone the implementation of the requirements of Section 420.630(b)(2) of this Part or subsection (e) above 420-640 for up to twelve six months. After twelve six months the postponement shall lapse and may be renewed, for up to twelve six months at a time, only if the Legislative Audit Commission shall specifically approve such renewal.

(Source: Amended at 20 Ill. Reg. 1701, effective JAN 31 1995)

## SUBPART H: CONSULTATIONS AND RESPONSES TO FINDINGS

## Section 420.710 Introduction

- a) SUBJECT. This Subpart subject covers consultations with heads of agencies concerning findings and recommendations in audit reports before the issuance of such reports; and the opportunity for persons who are identified by name in a recommendation contained in may individually be the subject of a post audit report to respond to findings or recommendations in the report which pertain to them.
- b) AUTHORITY. Sections 3-7, 3-8(c), 3-8(d), ISAA [30 ILCS 5/3-7, 3-8(c) and 3-8(d)] (1999-Rev-Stat--1999-15--pars--303-77-303-8(c) and 303-8(d)).

- c) INCORPORATIONS. The following materials are incorporated by reference and made a part of this Subpart subject:
  - 1) Standards of Construction for Regulations (Subpart A of this Part). of the Office of the Auditor General as now and hereafter amended (74 Ill. Adm. Code-Subpart-A);
  - 2) Definitions (Subpart B of this Part). of the Office of the Auditor General as now and hereafter amended (74 Ill. Adm. Code-Subpart-B);

- d) EFFECTIVE DATE. This regulation becomes effective on November 29, 1979 (this regulation is subject to Section 3-7 of the ISAA requiring approval by the Legislative Audit Commission within 90 days of its submission to the Commission).

- e) DEFINITIONS. Audit report means the document issued by the Auditor General upon the completion of a post audit by the Auditor General, which report may include any or all of the following: financial statements, statements of facts, findings, conclusions, recommendations, responses to audit findings by agencies or individuals; and shall include a "Report Digest" signed by the Auditor General.

(Source: Amended at 20 Ill. Reg. 1701, effective JAN 31 1995)

## Section 420.720 Consultations with Heads of Agencies and Individuals

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## a) RESPONSES TO PROPOSED FINDINGS BY AGENCIES.

1) When the Office of the Auditor General has determined the proposed findings and recommendations to be included in an audit report, he shall forward a copy shall be forwarded to the head of each agency covered by the audit. Upon receiving a copy of the proposed findings and recommendations, an agency head (or his or her designee) shall have:

A) 7 days from receipt of the proposed findings and recommendations in which to request a conference (if the agency head desires one) with the Office of the Auditor General concerning the proposed findings and recommendations, and shall be available for such conferences during the 10-day period following the date of the request. All requested conferences shall be completed within 14 days from the agency's receipt of the proposed findings and recommendations this 10-day period. If no conference was held, the reason therefore shall be included in the audit workpapers with the audit report.

B) 21 5 days from receipt of the proposed findings and recommendations in which to deliver direct to the Auditor General any written comments the agency may have concerning the findings and recommendations involving the agency.

2) A copy of the agency's written comments will be included in the final version of the audit report if the comments are received in the Springfield office of the Auditor General on or before the 21st 25th day after the agency's receipt of the proposed findings and recommendations after the materials being commented upon were received by the agency.

3) In the absence of a written response from the agency, within 21 25 days from the receipt by the agency head of the proposed findings and recommendations, the audit report may be issued without response. Written comments Comments received after 21 25 days will be placed in the audit file.

4) Where size of the agency or the complexity of the audit would require additional response time, the Division audit director assigned to the audit by the Auditor General, upon request from the agency head director, may extend any time period or deadline specified by this Section section.

## b) RESPONSES TO PROPOSED FINDINGS BY INDIVIDUALS.

1) When the audit manager has determined the proposed findings and recommendations to be included in an audit report, the audit manager he shall forward to each individual who is identified by name in a recommendation contained in the subject of the audit report those proposed findings and recommendations which relate to that individual him. After the receipt of these materials, the individual shall have 21 25 days in which to deliver direct to the Auditor General any written comments the individual may have concerning the findings or recommendations involving him or

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her. Copies of an individual's written comments will be included in the final version of the audit report if they are received in the Springfield office of the Auditor General on or before the 21st 25th day after the proposed findings and recommendations materials being commented upon were received by the individual. Comments received after 21 25 days will be placed in the audit file.

2) When an individual who is the subject of an audit report demonstrates an his inability because of personal hardship to meet the deadlines specified in this Section section, the Division audit director assigned to the audit by the Auditor General may extend the specified time period or deadline.

c) RESPONSES TO NEW MATTER IN REPORT DIGEST. When a Report Digest contains findings and recommendations matters not previously submitted with the proposed report text findings, a copy of the matters to be included in the Report Digest shall be forwarded to the agency and/or individual covered by the audit for comment. The agency and/or individual covered by the new material will have 7 5 days from receipt of the Report Digest new matter in which to make written format comment.

(Source: Amended at 20 Ill. Reg. 17 1, effective

JAN 31 1988).

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1) Heading of the Part: Code of Rules

2) Code Citation: 74 Ill. Adm. Code 440

3) Section Numbers: Adopted Action:

440.10 Amend  
440.110 Amend  
440.120 Amend  
440.130 Amend  
440.140 Amend  
440.210 Amend  
440.310 Amend  
440.330 Amend  
440.410 Amend  
440.420 Amend  
440.510 Amend  
440.610 Amend  
440.620 Amend  
440.710 Amend  
440.720 Amend  
440.730 Amend

4) Statutory Authority: Subparts A and B implementing and authorized by Section 2-12(a) of the Illinois State Auditing Act [30 ILCS 5/2-12(a)]; Subpart C implementing and authorized by Section 2-12 of the Illinois State Auditing Act [30 ILCS 5/2-12]; Subpart D implementing and authorized by Section 2-12 of the Illinois State Auditing Act [30 ILCS 5/2-12]; Subpart E implementing and authorized by Section 2-12(c)(2) of the Illinois State Auditing Act [30 ILCS 5/2-12(c)(2)]; Subpart F implementing and authorized by Section 2-12(c)(3) of the Illinois State Auditing Act [30 ILCS 5/2-12(c)(3)]; Subpart G implementing and authorized by Section 2-12(c)(4) of the Illinois State Auditing Act [30 ILCS 5/2-12(c)(4)]; Subpart H implementing and authorized by Sections 2-12(c)(1) and (3) of the Illinois State Auditing Act [30 ILCS 5/2-12(c)(1) and (3)].

5) Effective Date of Rulemaking: January 31, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: November 13, 1995

9) Notice of Proposal Published in Illinois Register: August 25, 1995, 19 Ill. Reg. 12143

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10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version: Minor editing changes were made in accordance with the recommendations of the Joint Committee on Administrative Rules.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: These amendments make numerous technical, and a few substantive, changes, including: updating statutory and Illinois Administrative Code citations; making all references gender-neutral; and changing provisions for delegation of contracting authority, selection of contractors, signature of documents, and payment of witness fees and mileage for responding to a subpoena.

16) Information and questions regarding these adopted amendments may be directed to:

Rebecca Patton  
Office of the Auditor General  
740 E. Ash Street  
Springfield, Illinois 62703  
Phone: (217) 782-6698  
TDD: (217) 524-4646  
Fax: (217) 785-8222

The full text of the Adopted Amendments begins on the next page:



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TITLE 74: PUBLIC FINANCE  
CHAPTER III: AUDITOR GENERAL

PART 440  
CODE OF RULES

## SUBPART A: STANDARDS OF CONSTRUCTION FOR RULES

Section  
440.10 Introduction  
440.20 General Provisions

## SUBPART B: DEFINITIONS

Section  
440.110 Introduction  
440.120 General Provisions  
440.130 Abbreviations  
440.140 Specific Definitions

SUBPART C: CLARIFICATIONS CONCERNING THE DEFINITION OF  
FINANCIAL AUDIT OR COMPLIANCE AUDIT

Section  
440.210 Introduction  
440.220 Clarification

SUBPART D: PUBLIC PETITIONS REQUESTING RULEMAKING ACTIONS  
BY THE OFFICE OF THE AUDITOR GENERAL

Section  
440.310 Introduction  
440.320 General Provisions  
440.330 Procedures

## SUBPART E: CONTRACTUAL PERSONAL SERVICES

Section  
440.410 Introduction  
440.420 General Provisions

## SUBPART F: OATHS

Section  
440.510 Introduction  
440.520 General Provisions

## SUBPART G: SUBPOENAS

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Section  
440.610 Introduction  
440.620 General Provisions

## SUBPART H: DEPOSITIONS

Section  
440.710 Introduction  
440.720 General Provisions  
440.730 Procedure

SUBPART I: FINANCIAL ADMINISTRATION OF THE  
STATE AUDIT ADVISORY BOARD

Section  
440.810 Introduction (Repealed)  
440.820 Financial Provisions (Repealed)

AUTHORITY: Subparts A and B implementing and authorized by Section 2-12(a) of the Illinois State Auditing Act [30 ILCS 5/2-12(a)]; Subpart C implementing and authorized by Section 2-12 of the Illinois State Auditing Act [30 ILCS 5/2-12]; Subpart D implementing and authorized by Section 2-12 of the Illinois State Auditing Act [30 ILCS 5/2-12] and Section 5-145 of the Illinois Administrative Procedure Act [5 ILCS 100/5-145]; Subpart E implementing and authorized by Section 2-12(c)(2) of the Illinois State Auditing Act [30 ILCS 5/2-12(c)(2)]; Subpart F implementing and authorized by Section 2-12(c)(3) of the Illinois State Auditing Act [30 ILCS 5/2-12(c)(3)]; Subpart G implementing and authorized by Section 2-12(c)(4) of the Illinois State Auditing Act [30 ILCS 5/2-12(c)(4)]; Subpart H implementing and authorized by Sections 2-12(c)(1) and (3) of the Illinois State Auditing Act [30 ILCS 5/2-12(c)(1) and (3)].

SOURCE: Rules and Regulations of the Auditor General filed and effective February 1, 1976; amended at 2 Ill. Reg. 46, p. 17, effective November 17, 1978; amended at 3 Ill. Reg. 5, p. 860, effective February 2, 1979; amended at 3 Ill. Reg. 50, p. 195, effective December 13, 1979; amended at 4 Ill. Reg. 49, p. 91, effective November 21, 1980; codified at 5 Ill. Reg. 10584; amended at 6 Ill. Reg. 12253, effective September 24, 1982; amended at 20 Ill. Reg. 730, effective JAN 31 1986.

## SUBPART A: STANDARDS OF CONSTRUCTION FOR RULES

## Section 440.10 Introduction

- a) SUBJECT. This Subpart ~~subject~~ establishes the standards of construction applicable to all rules promulgated by the Office of the Auditor General [74 Ill. Adm. Code 440] ~~(Part-440)~~.
- b) AUTHORITY. This Subpart ~~subject~~ is promulgated under the authority of Section ~~Subsection~~ 2-12(a) of the Illinois State Auditing Act [30 ILCS

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- 5/2-12(a)] ~~§§11-Rev-Stat-1979-CH-157-PAR-302-12(a)~~.  
 c) INCORPORATIONS. The following material is incorporated by reference and made a part of this Subpart: ~~Subpart~~ Definitions (Subpart B of this Part) ~~7-as-now-and--hereafter--amended~~ ~~§4-111-Adm-Code-Part-440-Subpart-B~~.  
 d) EFFECTIVE DATE. This Subpart ~~subpart~~ becomes effective on February 1, 1976.

(Source: Amended at 20 Ill. Reg. 730, effective JAN 31 1976)

## SUBPART B: DEFINITIONS

## Section 440.110 Introduction

- a) SUBJECT. This Subpart ~~subpart~~ establishes the definitions of words, phrases, terms, and abbreviations used in rules promulgated by the Office of the Auditor General (74 Ill. Adm. Code 440) ~~Part-440~~.  
 b) AUTHORITY. This Subpart ~~subpart~~ is promulgated under the authority of Subsection 2-12(a) of the Illinois Auditing Act [30 ILCS 5/2-12(a)] ~~§11-Rev-Stat-1979-CH-157-PAR-302-12(a)~~.  
 c) INCORPORATION. The following material is incorporated by reference and made a part of this Subpart: ~~Subpart~~ Standards of Construction for Rules (Subpart A of this Part) ~~7-as-now-and--hereafter--amended~~ ~~§4-111-Adm-Code-Part-440-Subpart-A~~.  
 d) EFFECTIVE DATE. This Subpart ~~subpart~~ becomes effective on February 1, 1976.

(Source: Amended at 20 Ill. Reg. 730, effective JAN 31 1976)

## Section 440.120 General Provisions

- a) DEFINITIONS ISAA. Words which are defined in the Illinois State Auditing Act [30 ILCS 5] ~~§11-Rev-Stat-1979-CH-157-PAR-302-12(a)~~ ~~§§7-7-Approved-Sept-20-1973-as-now-and--hereafter--amended~~ have the same meanings when used in this Code of Rules (74 Ill. Adm. Code ~~Part~~ 440) as they have in the Illinois State Auditing Act unless there is an explicit indication to the contrary.  
 b) APPLICATION.  
 1) Words defined in this rule, when used in this Code of Rules (74 Ill. Adm. Code ~~Part~~ 440) shall have the meanings or modifications established in this subpart unless the context clearly requires otherwise or a different definition is explicitly made applicable.  
 2) If a word is defined in a particular rule, the definition given in that rule does not necessarily apply when the defined word is used in a different rule, unless there is a specific

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incorporation.  
 (Source: Amended at 20 Ill. Reg. 730, effective JAN 31 1996)

## Section 440.130 Abbreviations

- a) C.RG. C-Reg means Code of Regulations (74 Ill. Adm. Code ~~Part~~ 420).  
 b) C.RL. C-RL E-RI means Code of Rules (74 Ill. Adm. Code ~~Part~~ 440).  
 c) IPA. IPA means the Illinois Purchasing Act [30 ILCS 505] ~~7-as-now-and--hereafter--amended~~ ~~§11-Rev-Stat-1979-CH-127-PAR-132-12(a)~~ ~~§§7-7~~.  
 d) ISAA. ISAA means the Illinois State Auditing Act [30 ILCS 5] ~~7-as-now-and--hereafter--amended~~ ~~§11-Rev-Stat-1979-CH-157-PAR-302-12(a)~~ ~~§§7-7~~.

(Source: Amended at 20 Ill. Reg. 730, effective JAN 31 1996)

## Section 440.140 Specific Definitions

- a) CODE OF REGULATIONS. Code of Regulations means the official compilation of regulations promulgated by the Auditor General and currently in effect (74 Ill. Adm. Code 420).  
 b) CODE OF RULES. Code of Rules means the official compilation of rules promulgated by the Auditor General and currently in effect (74 Ill. Adm. Code 440) ~~Part-440~~.  
 c) OFFICER OF THE OFFICE OF THE AUDITOR GENERAL. Officer of the Office of the Auditor General means any individual designated as a State Auditor, or any ~~Special-Assistant-Auditor~~ Deputy Auditor, or other individual empowered by the Auditor General to act with respect to the performance of a specific audit, study, or investigation.  
 d) RULEMAKING. Rulemaking means separately or in combination any processes, procedures, or activities intended to result in, or which result in, a rule or regulation. Rulemaking includes the adoption, amendment, modification, update, suspension, repeal, rescission, or termination of a rule or regulation.  
 e) STATE AUDITOR. State Auditor means a State payroll employee of the Office of the Auditor General who has been authorized to conduct audits, investigations, and studies by the Auditor General, and who has otherwise been appointed State Auditor in accordance with the personnel rules of the Office of the Auditor General.  
 f) WORD. Word includes terms, phrases, and abbreviations.

(Source: Amended at 20 Ill. Reg. 730, effective JAN 31 1996)

SUBPART C: CLARIFICATIONS CONCERNING THE DEFINITION

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## OF FINANCIAL AUDIT OR COMPLIANCE AUDIT

## Section 440.210 Introduction

- a) SUBJECT. This subpart establishes clarifications and working interpretations concerning the meaning and requirements of a "financial audit" or "compliance audit."
- b) AUTHORITY. Section 2-12 ISAA [30 ILCS 5/2-12] (~~111-Rev-Stat--1979~~ ~~ch-157-par-302-127~~). This rule is necessary to effectively accomplish the requirements mandated by Sections 3-2 and 1-13 ISAA [30 ILCS 5/3-2 and 1-13] (~~111-Rev-Stat--1979~~ ~~ch-157-par-302-2-and-302-137~~).
- c) INCORPORATIONS. The following materials are incorporated by reference and made a part of this Subpart ~~subpart~~:
- 1) Standards of Construction for Rules (Subpart A of this Part) of the Office of the Auditor General ~~as now and hereafter amended~~ (~~74-III-Adm-Code-Part-4407-Subpart-A7~~).
  - 2) Definitions (Subpart B of this Part) for Rules of the Office of the Auditor General ~~as now and hereafter amended~~ (~~74-III-Adm-Code-Part-4407-Subpart-B7~~).
- d) EFFECTIVE DATE. This Subpart ~~subpart~~ becomes effective on March 1, 1977.

(Source: Amended at 20 Ill. Reg. 730, effective JAN 4 1 1976)

SUBPART D: PUBLIC PETITIONS REQUESTING RULEMAKING ACTIONS  
BY THE OFFICE OF THE AUDITOR GENERAL

## Section 440.310 Introduction

- a) SUBJECT. This Subpart ~~subpart~~ establishes the policy, procedures and forms governing the submission and disposition of requests by the public for rulemaking actions by the Office of the Auditor General.
- b) AUTHORITY. Section 5-145, the Illinois Administrative Procedure Act [5 ILCS 100/5-145] (~~111-Rev-Stat--1991~~ ~~ch-127-par-1005-1457~~). Section 2-12, ISAA [30 ILCS 5/2-12] (~~111-Rev-Stat--1979~~ ~~ch--157-par-302-127~~).
- c) INCORPORATIONS. The following materials are incorporated by reference and made a part of this Subpart ~~subpart~~:
- 1) Standards of Construction for Rules (Subpart A of this Part) of the Office of the Auditor General ~~as now and hereafter amended~~ (~~74-III-Adm-Code-Part-4407-Subpart-A7~~).
  - 2) Definitions (Subpart B of this Part) of the Office of the Auditor General ~~as now and hereafter amended~~ (~~74-III-Adm-Code-Part-4407-Subpart-B7~~).
- d) EFFECTIVE DATE. This Subpart ~~subpart~~ becomes effective on February 2, 1979.

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(Source: Amended at 20 Ill. Reg. 730, effective JAN 4 1 1976)

## Section 440.330 Procedures

- a) SUBMISSION OF PETITIONS. A petition for a rulemaking action by the Office of the Auditor General must be:
- 1) submitted in writing;
  - 2) delivered to the Office of the Auditor General at its Springfield address: ~~Marratt-Commerce-Building-1st-Floor--509--South--6th Street--Springfield--Illinois-62701~~; and
  - 3) in a format covering the information required by this Subpart ~~subpart~~.
- b) FORM OF PETITIONS. Each petition requesting a rulemaking action shall be legible and succinct and shall separately provide the following information:
- 1) The name of the person submitting the petition and the complete mailing address which the Auditor General should use in directing any correspondence or response to the petition.
  - 2)
    - A) If the rulemaking action covered by the petition involves an existing rule or regulation, then the title and number of the rule or regulation involved.
    - B) If the rulemaking action does not involve an existing rule or regulation, then a short synopsis of the subject and nature of the rulemaking.
  - 3) A draft in as much detail as possible of the text of the proposed rulemaking action.
  - 4) A statement detailing the reasons and basis for the petition and the desirable benefits if the proposed rulemaking is undertaken; and where necessary, an explanation of the key provisions of the proposal.
  - 5) Any other matters, statements, or information which the petitioner deems desirable.
- c) REVIEW OF PETITIONS.
- 1) Each petition submitted to the Office of the Auditor General in accordance with this subpart will be acknowledged to the petitioner at the address specified in the petition. After the petition is reviewed, the petitioner will be sent:
    - A) the results of the review;
    - B) the final decision of the Office concerning the petition; and
    - C) written answer to each specific question asked.
  - 2) However, as provided by the Illinois Administrative Procedure Act [5 ILCS 100/5-145] (~~111-Rev-Stat--1991~~ ~~ch--127-par-1005-1457~~), if rulemaking action on the petition is not initiated within 30 days of receipt of the petition by the Office of the Auditor General, then the petition shall be deemed denied.



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(Source: Amended at 20 Ill. Reg. 1230, effective  
JAN 31 1988)

## SUBPART E: CONTRACTUAL PERSONAL SERVICES

## Section 440.410 Introduction

- a) SUBJECT. A rule for the appointment of Special Assistant Auditors and/or nonlicensed entities or individuals performing contractual personal services for the Office of the Auditor General.
- b) SCOPE. This Subpart governs all contracts with individuals and entities performing services for the Office of the Auditor General except:
- 1) Services by individuals covered (Personnel Rule).
  - 2) Those services secured through competitive bidding.
  - 3) Contractual personal services for the maintenance of equipment.
- c) AUTHORITY. Section 2-12(c)(2), ISAA [30 ILCS 5/2-12(c)(2)] (440-Rev-Stat-1979; ch-15; par-302-12(c)(2)).
- d) INCORPORATIONS. The following materials are incorporated by reference and made a part of this rule:

- 1) Standards of Construction for Rules (Subpart A of this Part) of the Office of the Auditor General as now and hereafter amended (74-III-Adm-Code-Part-440-Subpart-A).
- 2) Definitions (Subpart B of this Part) for Rules of the Office of the Auditor General as now and hereafter amended (74-III-Adm-Code-Part-440-Subpart-B).

- e) EFFECTIVE DATE. This Subpart rule becomes effective on November 21, 1980.

(Source: Amended at 20 Ill. Reg. 1230, effective  
JAN 31 1988)

## Section 440.420 General Provisions

## a) GENERAL PROVISIONS.

- 1) Conflicts. No Contractor, Subcontractor or associated principal shall have any interest which would conflict in any manner with the performance of the services to be provided under a contract.
- 2) Contractual evidence. All services secured under this subpart shall be the subject of a written contract, which contract shall be duly approved by the Director of Administrative Services for Pending and the General Counsel for form and legal sufficiency.
- 3) Selection. All persons other than specified in subsection (b) below 74-III-Adm-Code-Section-440-420(b) shall be employed upon the recommendation of an Executive Employee Officer who shall have obtained from a prospective contractor or contractors resumes, supporting materials regarding qualifications and experience, responses to proposals or other documentation of

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proposed work, objectives, costs and credentials to determine the capability of the Contractor to perform the work contemplated under a contract.

- 4) Delegations of authority. The Auditor General has delegated the following authorities to sign Requests for Proposals of Contracts:

A) Signing Requests for Proposals or Contracts (Audit). The authority to sign issue or effectuate in the name of the Auditor General Requests for Proposals or contracts to hire individuals or entities to assist in or conduct audits, investigations, special studies or other similar activities is delegated to the Assistant Auditor General and the following additional individual(s):

- i) The Director of Compliance Audit Services for Compliance Audit responsibilities.

- ii) The Director of Performance Audit Services for Performance Audit responsibilities.

B) Signing Requests for Proposals or Contracts (Nonaudit). The authority to sign issue or effectuate in the name of the Auditor General Requests for Proposals or contracts to hire individuals or entities to assist in accomplishing the responsibilities or programs of the office which are not classified as audit under 74-III-Adm-Code-Section 440-420(a)(3) is delegated to the following individual(s):

Assistant Auditor General:

Director of General Management:

- C) Form of Signature. Whenever an individual is authorized to sign documents other than invoice vouchers in the name of the Auditor General then the preferred form is to type or write the Auditor General's name with the individual signing his own name below as follows:

ROBERT G. ERMENSON  
By: \_\_\_\_\_

Any delegation of authority by the Auditor General to sign, issue or effectuate, in the name of the Auditor General, Requests for Proposals or contracts to hire individuals or entities to assist in accomplishing the responsibilities or programs of the office shall be maintained in writing, signed and dated by the Auditor General, at the office's Springfield location. The form of signature for any delegated authority shall be specified in the document effecting the delegation.

- 5) Documentation. Contract files shall be maintained by the Office of the Auditor General pursuant to 74 Ill. Adm. Code 420: Subpart G and shall contain the resumes, supporting materials regarding qualifications and experience, response to proposals or other documentation of proposed work, objectives, costs and credentials to perform work designated in the contract upon which the selection was based, together with the signature of the Executive

## AUDITOR GENERAL

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Employee ~~Officer~~ recommending the selection.

## b) SPECIAL ASSISTANT AUDITORS.

- 1) General -- Designation. Where the contract contemplates the designation of Special Assistant Auditors, the individuals granted this status shall be set out as required by ~~in~~ the contract.

## 2) Compliance audit duties.

- A) ~~Prerequisite~~ ~~Audit-data-sheet~~. Firms and individuals may request to be placed on the list of available firms for the conduct of compliance audits by submitting prequalification documents ~~an-audit-firm-data-sheet~~ in the form supplied by the Office of the Auditor General to the Compliance Audit Director.

- B) Selection. The Compliance Audit Director shall select audit firms or individuals to conduct preliminary surveys of a State agency for purposes of submitting a proposal to conduct an audit. The survey shall cover those items specified by the audit director. Upon receipt of a proposal or proposals satisfactory to the Compliance Audit Director, a contract to perform the audit or a part thereof shall be tendered by the Compliance Audit Director to the Auditor General or the Auditor General's designee for approval.

## 3) Performance audit duties -- Request for proposal -- preparation.

- A) All performance audit contracts shall be the subject of a Request for Proposal prepared under the supervision of the Performance Audit Director, unless (in specific cases) this requirement is waived by the Auditor General.

- B) Such waiver may be granted in cases where conditions and restrictions are externally imposed which render impracticable the requirement of a Request for Proposal. Such conditions include but are not limited to:

- i) time restrictions on the completion of the report;
- ii) limitations as to the source from which such services are available;

- iii) situations in which an individual Contractor has a background of prior knowledge and experience which renders uneconomic the use of the Request for Proposal process.

## 4) Performance Audit Duties -- Request for proposal -- distribution.

- A) The Request for Proposal shall be ~~posted in the office of the Auditor General~~ and distributed to all interested parties with a notice to submit to the Office of the Auditor General at least 10 days prior to time scheduled for evaluation.

- B) ~~When~~ Where the Auditor General determines that it is in the best interest of the state to extend a time period to submit Requests for Proposals, on any subject matter, ~~the extended time frame shall be posted~~ and all parties known by the

## AUDITOR GENERAL

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Office of the Auditor General to have received a Request for Proposal shall be notified of the closing date.

## C) Such extensions may be granted when:

- i) the number of adequate proposals received within the time period previously specified is not sufficient to form a basis for selection;
- ii) it is apparent, on the basis of information submitted by interested parties to whom Request for Proposals have been directed, that the time period previously established is inadequate.

- 5) Performance Audit Duties -- Request for proposal -- evaluating. Upon expiration of the time specified in the notice to submit a Request for Proposal, the Performance Audit Director shall cause an evaluation to be made of all Requests for Proposals received.

- 6) Performance Audit Duties -- Execution of contract. Upon receipt of a satisfactory Request for Proposal, the Performance Audit Director shall tender a contract to perform the services to the Auditor General or the Auditor General's designee for approval.

- 7) Information Systems Audit Duties -- Whenever possible and practicable, the Information Systems Audit Director shall select individuals or firms to perform information systems audits that are prequalified under subsection (b)(2)(A) above. Upon selecting an individual or firm qualified to perform the audit, the Information Systems Audit Director shall tender a contract to the Auditor General or the Auditor General's designee for approval.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective JAN 31 1936.)

## SUBPART F: OATHS

## Section 440.510 Introduction

- a) SUBJECT. This Subpart ~~subpart~~ establishes:

- 1) the basic standards concerning the use of oaths by persons associated with the Office of the Auditor General;
- 2) the delegation of the authority to administer oaths; and
- 3) the general form of oath to be utilized.

- b) AUTHORITY. This Subpart ~~subpart~~ is promulgated under the authority of Section 2-12(c)(3) ISAA [30 ILCS 5/2-12(c)(3)] ~~§§11-Rev-Stat-1997 ch-157-par-302-12(c)(3)~~.

- c) INCORPORATIONS. The following materials are incorporated by reference and made a part of this Subpart ~~subpart~~:

- 1) Standards of Construction for Rules (Subpart A of this Part) ~~7-1-1997 now-and-hereafter-amended-174-111-Adm-Code-Part-440-Subpart-A7~~;
- 2) Definitions (Subpart B of this Part) ~~7-1-1997 now-and-hereafter-amended-174-111-Adm-Code-Part-440-Subpart-B7~~.

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## d) REFERENCES.

Section 2-11(c) ISAA [30 ILCS 5/2-11(c)] ~~§§11-Rev--Stat--1979--ch-15-par-302-11(c)††~~.

Section 2-12(c)(3) ISAA [30 ILCS 5/2-12(c)(3)] ~~§§11-Rev--Stat--1979--ch-15-par-302-12(c)††~~.

Section 3-13 ISAA [30 ILCS 5/3-13] ~~§§11-Rev--Stat--1979--ch-15-par-303-13†~~.

e) EFFECTIVE DATE. This Subpart subpart becomes effective on February 1, 1976.

(Source: Amended at 20 Ill. Reg. 730, effective JAN 21 1976.)

## SUBPART G: SUBPOENAS

## Section 440.610 Introduction

a) SUBJECT. This Subpart subpart establishes:

1) the basic policies and procedures concerning the issuance of subpoenas; and

2) the general form and content of subpoenas.

b) AUTHORITY. This Subpart subpart is promulgated under the authority of Section 2-12(c)(4) ISAA [30 ILCS 5/2-12(c)(4)] ~~§§11-Rev--Stat--1979--ch-15-par-302-12(c)††~~.

c) INCORPORATIONS. The following materials are incorporated by reference and made a part of this Subpart subpart:

1) Standards of Construction for Rules (Subpart A of this Part) ~~§-as now-and-hereafter-amended-74-111-Adm--Code--Part--440--Subpart A†~~.

2) Definitions (Subpart B of this Part) ~~§-as-now-and-hereafter-amended-74-111-Adm--Code--Part--440--Subpart-B†~~.

## d) REFERENCES.

Section 2-12(c)(4) ISAA [30 ILCS 5/2-12(c)(4)] ~~§§11-Rev--Stat--1979--ch-15-par-302-12(c)††~~.

Section 3-13 ISAA [30 ILCS 5/3-13] ~~§§11-Rev--Stat--1979--ch-15-par-303-13†~~.

e) EFFECTIVE DATE. This Subpart subpart becomes effective on February 1, 1976.

(Source: Amended at 20 Ill. Reg. 730, effective JAN 21 1976.)

## Section 440.620 General Provisions

a) REQUESTS FOR SUBPOENAS. Any State Auditor or Special Assistant Auditor of the Office of the Auditor General may request the issuance of a subpoena by directing a request, in writing, to the Auditor General. Such requests will be in a form and contain such information

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as specified by the Auditor General.

b) ISSUANCE OF SUBPOENAS. Subpoenas will be issued by the Auditor General or a Deputy Auditor General only upon review of an appropriate request. Subpoenas will be executed in two or more original copies, marked "first duplicate original," "second duplicate original," etc. each signed by the Auditor General or a the Deputy Auditor General. The executed subpoenas shall be delivered to the requesting party for service.

c) SERVICE OF SUBPOENA. Subpoenas may be served by any person who is over age 18 years. Service may be made:

1) If the person being served is an individual, by personal delivery of an executed original to the individual, or by leaving an executed original at the individual's usual place of abode, with some person of the family, who is age 13 years or older, provided the server also sends a copy of the subpoena, postage prepaid addressed to the individual at the ~~his~~ individual's usual place of abode.

2) If the person being served is a corporation, by leaving an executed original with the registered agent or officer or agent of the corporation.

3) If the person being served is an entity other than a corporation or an individual, by leaving an executed original with any officer, partner, associate, or agent of the entity.

4) By mailing an executed original by certified mail, return receipt requested, and postage prepaid, to the person to be served at the person's principal place of business or principal office or in the case of an individual at the individual's ~~his~~ principal place of abode.

d) RETURN OF SERVICE OF SUBPOENA. After a subpoena is served, the server shall execute and have acknowledged before a person authorized to administer oaths, the Certificate of Service on the original retained by the server ~~him~~ and return it to the individual in charge of the Post Audit or Investigation.

e) ENFORCEMENT. When a person fails to comply with a subpoena, the individual in charge of the post audit or investigation shall send to the Chief Legal General Counsel a notice of failure to comply accompanied by the duplicate original subpoena showing service together with a request for further action by the Auditor General or other recommendations.

f) WITNESS FEES AND MILEAGE.

1) Persons complying with a subpoena of the Office of the Auditor General will be paid attendance costs as provided by statute for civil cases in Illinois Circuit Courts ~~in accordance with the Illinois Revised Statutes-ch-63-par-13-3a-as-now-and-hereafter amended.~~

2) State employees will be asked to waive witness fees and mileage if they appear as witnesses during their regular working hours and within their regularly assigned work district.



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- g) SUBPOENA FORM. Subpoenas issued by the Office of the Auditor General shall be in of a form specified by the Auditor General.

(Source: Amended, 20 Ill. Reg. 13, effective JAN 31 1996)

## SUBPART H: DEPOSITIONS

## Section 440.710 Introduction

- a) SUBJECT. This Subpart subpart establishes:
- 1) the basic policies, procedures and guidelines concerning the taking of depositions by State Auditors and Special Assistant Auditors;
  - 2) the procedure for a service of a Notice of Deposition.
- b) AUTHORITY. Sections 2-12(c)(1) and (3), ISAA [30 ILCS 5/2-12(c)(1) and (3)] ~~(((111-Rev-Stat-1979-CH-15-PAR-302-12(c)(1)-and-(3))~~ and ~~(3))~~ ~~(((111-Rev-Stat-1979-CH-15-PAR-302-12(c)(1)-and-(3))~~ and ~~(3))~~.
- c) INCORPORATIONS. The following materials are incorporated by reference and made a part of this Subpart subpart:
- 1) Standards of Construction for Rules (Subpart A of this Part) ~~7-as new-and-hereafter-amended-(74-111-Adm-Code-Part-440-Subpart-B)~~.
  - 2) Definitions (Subpart B of this Part) ~~7-as--now--and--hereafter amended-(74-111-Adm-Code-Part-440-Subpart-B)~~.
- d) REFERENCES.
- Sections 2-12(c)(1) and (3), ISAA [30 ILCS 5/2-12(c)(1) and (3)] ~~(((111-Rev-Stat-1979-CH-15-PAR-302-12(c)(1)-and-(3))~~ and ~~(3))~~.
- Section 3-13, ISAA [30 ILCS 5/3-13] ~~(((111-Rev-Stat-1979-CH-15-PAR-303-13)~~ and ~~(13))~~.
- e) EFFECTIVE DATE. This Subpart subpart becomes effective on December 13, 1979.

(Source: Amended at 20 Ill. Reg. 130, effective JAN 31 1996)

## Section 440.720 General Provisions

- a) USE OF DEPOSITION AUTHORITY. Depositions upon oral examination may be taken when, in the opinion of an audit Director manager, the need to preserve statements or the interrogation of a person under oath is essential to the conduct of an audit or upon direction of the Auditor General.
- b) PERSONS BEFORE WHOM DEPOSITIONS MAY BE TAKEN. Depositions may be taken before a State Auditor, a Special Assistant Auditor, or an officer authorized to administer oaths by the laws of the State of Illinois or the United States.
- c) WHERE DEPOSITION TAKEN. A deposition may be taken at the office of any State agency where the witness is employed, or in the case of a person other than a State employee, in a suitable location selected by

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- the State Auditor or Special Assistant Auditor in the county in which the person resides.

- d) RECORD OF EXAMINATION: OATH. The person before whom the deposition is taken shall put the witness on oath and shall personally, or by someone acting under that person's ~~his~~ direction and in that person's ~~his~~ presence, record the testimony of the witness. The testimony shall be taken stenographically or by sound recording service, and upon agreement of the parties may be taken by audio visual recording device. The testimony shall be transcribed at the request of any party. Objections made at the time of the examination shall be included in the deposition.

- e) SCOPE OF EXAMINATION. The witness in a deposition may be examined regarding any matter within the scope of a post audit or investigation. No rules of evidence need be observed.
- f) FEES AND CHARGES.

- 1) The Auditor General's office shall pay the fees of the witness and the charges of the recorder or stenographer for attending.
- 2) The witnesses who are State employees shall not be entitled to a witness or travel fee. Witnesses other than State employees shall be paid the witness and travel fees provided by statute for civil cases in Illinois Circuit Courts.
- g) COPIES. Upon payment of reasonable charges therefor the recorder or stenographer shall furnish a copy of the deposition to the witness.
- h) FAILURE OF STATE EMPLOYEE TO RESPOND TO SUBPOENA FOR DEPOSITION. In addition to any other remedy provided by law, the Auditor General shall report the failure by a State official or employee to respond to a subpoena issued by his office as an instance of failure to cooperate by a State agency pursuant to Section 3-12, ISAA [30 ILCS 5/3-12] ~~(((111-Rev-Stat-1979-CH-15-PAR-303-12)~~ and ~~(12))~~.

(Source: Amended at 20 Ill. Reg. 130, effective JAN 31 1996)

## Section 440.730 Procedure

- a) NOTICE OF DEPOSITION. All Notices of Deposition shall be by service of a Subpoena for Deposition issued and served in accordance with Subpart G of this Part ~~74-111-Adm-Code-Part-440-Subpart-6~~.
- b) SUBPOENA FOR DEPOSITION FORM. Subpoena for Deposition issued by the Office of the Auditor General shall be in the form specified by the Auditor General.

(Source: Amended at 20 Ill. Reg. 130, effective JAN 31 1996)

## COMPTROLLER MERIT COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Merit Commission Rules
- 2) Code Citation: 80 Ill. Adm. Code 100
- 3) Section Numbers:      Adopted Action:  
     100.90                      Amended
- 4) Statutory Authority: Implementing and authorized by the Comptroller Merit Employment Code [15 ILCS 410].
- 5) Effective date of rules: December 26, 1995
- 6) Does the rulemaking contain an automatic repeal date? No
- 7) Does the rulemaking contain incorporations by reference? No
- 8) Date filed in agency's principal office: July 17, 1995
- 9) Date the notice of proposed amendments was published in the Illinois Register: September 15, 1995, 19 Ill. Reg 12856
- 10) Has JCAR issued a Statement of Objections to this Part? No
- 11) Differences between the proposal and the final version: There are no differences.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? N/A
- 13) Will these amendments replace emergency amendments currently in effect? No
- 14) Are there any other proposed amendments pending on this Part? No
- 15) Summary and purpose of rules: The Adopted Amendments to the Comptroller Merit Commission rules would correct an inconsistency in current rules regarding the time period in which an allocation appeal must be filed after receipt of the Director's decision on reconsideration. The amendment also eliminates the need to file a notice of appeal as the appeal itself is required to be filed within the 15 day period.
- 16) Information and questions regarding these adopted amendments shall be directed to:  
     Marylou Lowder Kent  
     Chairman  
     Comptroller Merit Commission

## COMPTROLLER MERIT COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

325 West Adams Street  
 Springfield, IL 62704  
 (217) 785-1127

The full text of the Adopted Amendments begins on the next page:

## COMPTROLLER MERIT COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
 SUBTITLE A: MERIT EMPLOYMENT SYSTEMS  
 CHAPTER III: STATE COMPTROLLER

## PART 100

## MERIT COMMISSION RULES

Section	
100.5	Definitions
100.10	Meetings of the Commission
100.20	Classification Plan
100.30	Personnel Rules
100.40	Jurisdiction B Exemptions
100.50	Orders of Compliance
100.55	Collective Bargaining Agreements
100.60	Appeals, Filing Requirements and Hearings
100.70	Disciplinary Hearings
100.80	Geographical Transfers
100.90	Allocation Appeals
100.100	Merit Employment Code and Personnel Rule Violations
100.110	Qualification and Authority of the Hearings Officer
100.115	Ex Parte Consultations
100.117	Response to Proposed Decision
100.120	Record of Proceedings
100.130	Authority of Commission Over Hearings Officer
100.140	Administrative Review
100.150	Adoption, Amendment and Recision of Rules

AUTHORITY: Implementing and authorized by the Comptroller Merit Employment Code [15 ILCS 410].

SOURCE: Emergency rule adopted at 3 Ill. Reg. 17, p. 66, effective April 18, 1979, for a maximum of 150 days; adopted at 3 Ill. Reg. 28, p. 69, effective July 5, 1979; amended at 7 Ill. Reg. 5416, effective April 11, 1983; codified at 8 Ill. Reg. 5645; amended at 19 Ill. Reg. 206, effective January 3, 1995; amended at 20 Ill. Reg. 74, effective DEC 26 1995.

## Section 100.90 Allocation Appeals

- a) If an employee wants to appeal the allocation of a position to a class, the employee must, within 15 days after the day of receipt of the Director's decision on reconsideration, file the appeal at the Office of the Commission and serve a copy of the appeal upon the Director. The appeal shall include the name of the employee, the employee's department and a description of the factual basis for the classification dispute. An employee must, within 14 days after the day of receipt of the Director's decision on reconsideration, serve notice upon the Commission of the employee's intent to appeal the

## COMPTROLLER MERIT COMMISSION

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reconsideration decision of the Director. A copy of the notice of intent must be served upon the Director. The notice shall state the name of the employee, the employee's department and a description of the classification dispute.

- b) Upon the receipt of the notice of intent to appeal, the Director shall file with the Commission, within 20 days, a submission setting forth in full a clear and brief recitation of all relevant facts, arguments and documentary evidence submitted in exhibit form to substantiate the reconsidered decision. If the submission, as a matter of law, does not set forth facts and reasons from which it could be reasonably concluded that the employee is properly classified, summary judgment may be granted. A copy of the submission shall be served upon the employee.
- c) Within 20 days after the day of receipt of the Director's submission, the employee must file with the Commission an answer setting forth all relevant facts, arguments and documentary evidence in exhibit form. A copy of the answer must be served upon the Director. The employee shall point out with particularity disagreement with the submission of the Director.
- d) If an employee or the Director desires an informal oral conference with the opposing party, a request for the conference shall be filed not later than 5 days after the employee's answer is due pursuant to subsection (c) above. An informal oral conference will be convened if requested by either of the parties and due notice will be given the parties of the time and date of the conference which will be conducted in the presence of either the Chair or a Hearings Officer.
- e) Parties may be heard either in person, by counsel or by other representatives as they may elect.
- f) Upon written request of either side, the Commission may issue subpoenas to compel the production of documents or persons having relevance to the issues of the dispute.
- g) The Commission may make its decision on the pleadings, or it may order formal hearings held on disputed issues of fact or law at the request of either party or upon its own motion.
- h) Upon failure to comply with these rules, the Commission may make its decision on the facts before it, if sufficient facts exist, or it may default the noncomplying party. Such action shall be a decision on the merits of the appeal. An adverse inference may be drawn against any party failing to comply with these rules.
- i) Unless inconsistent with this Section, the procedures governing Section 100.70 shall apply to formal allocation hearings.

(Source: Amended at 20 Ill. Reg. 74, effective DEC 26 1995)



## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Designation of Restricted Waters in the State of Illinois

2) Code Citation: 17 Ill. Adm. Code 2030

3) Section Numbers:  
2030.30 Adopted Action:  
Amendments

4) Statutory Authority: Implementing and authorized by Sections 5-7 and 5-12 of the Boat Registration and Safety Act [625 ILCS 45/5-7 and 5-12].

5) Effective Date of Rulemaking: December 29, 1995

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: December 27, 1995

9) Notice of Proposal Published in Illinois Register: September 8, 1995, 19 Ill. Reg. 12565

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? Yes

<u>Section Numbers</u>	<u>Adopted Action</u>	<u>Illinois Register Citation</u>
2030.30	Amendment	19 Ill. Reg. 11867, 8/18/95

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: Due to the small size (144 acres and shall depth (average 7 feet) of Griswold Lake and the high use by both boaters and non-boaters (swimmers, waders, shore use), allowing motor sizes larger than 10 horsepower constitutes a serious threat to public safety and welfare. This Lake came under the jurisdiction and control of the Department of Natural Resources on July 1, 1995, when the Division of Water Resources became part of the Department of Natural Resources. Petitions to restrict horsepower, and petitions to allow unlimited horsepower were received by the Department. An investigation was completed and a public hearing was held. The Department's finding was that the 10 horsepower restriction is necessary for protection of both the boat users and the non-boat users.

## DEPARTMENT OF NATURAL RESOURCES

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16) Information and questions regarding this adopted amendment shall be directed to:

Jack Price  
Department of Natural Resources  
524 S. Second Street, Room 430  
Springfield, IL 62701-1787  
217/782-1809

The full text of the Adopted Amendment begins on the next page:

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION  
 CHAPTER I: DEPARTMENT OF NATURAL RESOURCES CONSERVATION  
 SUBCHAPTER e: LAW ENFORCEMENT

## PART 2030

## DESIGNATION OF RESTRICTED WATERS IN THE STATE OF ILLINOIS

Section	General Regulations
2030.10	General Regulations (Repealed)
2030.15	Designation of Restricted Waters by the Department of Conservation
2030.20	Region I - Designated Restricted Boating Areas
2030.30	Region II - Designated Restricted Boating Areas
2030.40	Region III - Designated Restricted Boating Areas
2030.50	Region IV - Designated Restricted Boating Areas
2030.60	Region V - Designated Restricted Boating Areas (Repealed)
2030.70	Riverboat Gambling Casinos - Designated Restricted Boating Areas

AUTHORITY: Implementing and authorized by Sections 5-7 and 5-12 of the Boat Registration and Safety Act [625 ILCS 45/5-7 and 5-12].

SOURCE: Adopted at 5 Ill. Reg. 8763, effective August 25, 1981; codified at 5 Ill. Reg. 10617; amended at 9 Ill. Reg. 4789, effective April 2, 1985; amended at 11 Ill. Reg. 9519, effective May 5, 1987; emergency amendment at 12 Ill. Reg. 8745, effective May 15, 1988, for a maximum of 150 days; emergency expired September 20, 1988; emergency amendment at 12 Ill. Reg. 12111, effective July 6, 1988, for a maximum of 150 days; emergency expired December 12, 1988; amended at 12 Ill. Reg. 16707, effective September 30, 1988; amended at 13 Ill. Reg. 20472, effective November 28, 1988; corrected at 13 Ill. Reg. 967; emergency amendment at 13 Ill. Reg. 2878, effective February 21, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 12814, effective July 21, 1989; amended at 16 Ill. Reg. 8483, effective May 26, 1992; amended at 19 Ill. Reg. 7549, effective May 26, 1995; emergency amendment at 19 Ill. Reg. 11967, effective August 3, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 750, effective DEC 9 1995.

## Section 2030.30 Region II - Designated Restricted Boating Areas

- a) The following portions of the Calumet and Little Calumet Rivers are designated as Slow, No Wake areas:
- 1) An area from the O'Brien Locks to the Michigan Central Railroad Bridge (approximately mile 326.5 to 325.3).
  - 2) An area around the Pier 11 Marina and the Lake Calumet Boat and Gun Club (approximately mile 323.2 to 323.1).
  - 3) An area around the Maryland Manor Boat Club, Skipper's Marina, and Rentner Marina (approximately mile 323.0 to 322.5).
  - 4) An Area around Triplex Marina (approximately mile 319.9 to 319.8).

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

- b) The following portions of the Des Plaines River are designated as Slow, No Wake areas:

- 1) An area around the Bay Hill Marina, Wilmington, Illinois (approximately mile 273.7), extending 150 feet out into the river and 300 feet both upstream and downstream from the center of the Marina.
  - 2) An area around the Three Rivers Yacht Club, Wilmington, Illinois (approximately mile 273.7), extending 150 feet from the harbor entrance.
- c) The following portion of the Fox River is designated as a Slow, No Wake area:
- An area within 150 feet upstream and downstream of the I-90 bridge.
- d) The following portions of Lake Michigan are designated as No Boat areas:
- 1) An area at North Point Marina, located off the northern breakwater, running 200 yards parallel to the shoreline and 100 yards out into the lake.
  - 2) An area at Illinois Beach State Park, located between the park office and the #3 bathhouse, running parallel to the shoreline and 70 yards out into the lake.

- e) It shall be unlawful to operate any watercraft with a motor larger than ten (10) horsepower on the waters of Griswold Lake in McHenry County.

(Source: Amended at 20 Ill. Reg. 750, effective DEC 9 1995.)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Duck, Goose and Coot Hunting

2) Code Citation: 17 Ill. Adm. Code 590

3) Section Numbers: Adopted Action:  
590.10 Amendments  
590.60 Amendments  
590.80 New Section

4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 3.5, 3.6, 3.7, 3.8, and 3.10 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 3.5, 3.6, 3.7, 3.8, and 3.10], and Migratory Bird Hunting (50 CFR 20, effective September 26, 1990).

5) Effective Date of Rulemaking: December 27, 1995

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: December 27, 1995

9) Notice of Proposal Published in Illinois Register: October 6, 1995, 19 Ill. Reg. 13681

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version:

All references to "Department of Conservation" were changed to "Department of Natural Resources."

In Section 590.10(h), the parenthesis surrounding the counties were removed.

In Section 590.10(l), a comma was added following "season."

In Section 590.60(b)(10)(G), the semi-colon following hunters was changed to a comma.

In Section 590.80(a), commas were inserted following "season", "hunting" and "590.60."

In Section 590.60(b), "Region I" was changed to "Region 1."

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

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13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: This Part was amended to eliminate tagging requirements for Canada geese in excess of twice the daily bag limit; to add statewide and site specific regulations regarding snow goose seasons that occur after the Canada goose season; and to list requirements for recording a third Canada goose on the goose permit required in the Northern and Central Illinois Canada goose season zones.

16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price  
Department of Natural Resources  
524 S. Second Street, Room 430  
Springfield, IL 62701-1787  
217/782-1809

The full text of the Adopted Amendment begins on the next page:



## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION  
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES CONSERVATION  
SUBCHAPTER b: FISH AND WILDLIFE

## PART 590

## DUCK, GOOSE AND COOT HUNTING

## Section

## 590.10 Statewide Regulations

590.15 Duck, Goose and Coot General Hunting Regulations on all Department-Owned and -Managed sites

590.20 Permit Controlled Department Sites Only - Duck, Goose and Coot Hunting

590.25 Illinois Youth Waterfowl Hunting Permit Requirements

590.26 Illinois Youth Duck Hunting Permit Requirements (Repealed)

590.30 Duck, Goose and Coot General Hunting Regulations on all Department-Owned and -Managed Sites (Repealed)

590.40 Check Station Department Sites Only - Duck, Goose and Coot Hunting

590.50 Non-Check Station Department Sites Only - Duck, Goose and Coot Hunting

590.60 Various Other Department Sites - Duck, Goose and Coot Hunting

590.70 Ohio River

590.80 Snow, Blue and Ross' Goose Hunting Regulations on Department Sites

## EXHIBIT A The Non-Toxic Shot Zones of Illinois (Repealed)

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 3.5, 3.6, 3.7, 3.8, and 3.10 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 3.5, 3.6, 3.7, 3.8, and 3.10], and Migratory Bird Hunting (50 CFR 20, effective September 26, 1990).

SOURCE: Adopted at 5 Ill. Reg. 8857, effective August 25, 1981; emergency amendment at 5 Ill. Reg. 11386, effective October 14, 1981, for a maximum of 150 days; codified at 5 Ill. Reg. 10638; Part repealed at 6 Ill. Reg. 9647, effective July 21, 1982; new Part adopted at 6 Ill. Reg. 11865, effective September 22, 1982; amended at 7 Ill. Reg. 13229, effective September 28, 1983; emergency amendment at 7 Ill. Reg. 13948, effective October 6, 1983, for a maximum of 150 days; amended at 8 Ill. Reg. 18968, effective September 26, 1984; amended at 9 Ill. Reg. 14242, effective September 5, 1985; peremptory amendment at 9 Ill. Reg. 15062, effective September 25, 1985; emergency amendment at 9 Ill. Reg. 15928, effective October 8, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 15588, effective September 22, 1986; emergency amendment at 10 Ill. Reg. 17773, effective September 26, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 10560, effective May 21, 1987; emergency amendment at 11 Ill. Reg. 15242, effective August 28, 1987, for a maximum of 150 days; emergency expired January 25, 1988; amended at 12 Ill. Reg. 12200, effective July 15, 1988; emergency amendment at 12 Ill. Reg. 16233, effective September 23, 1988, for a maximum of 150 days; emergency expired February 20, 1989; emergency amendment at 12 Ill. Reg. 22244, effective December 7, 1988, for a maximum of 150 days; emergency expired May 6, 1989; amended at 13 Ill.

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Reg. 10525, effective June 20, 1989; amended at 13 Ill. Reg. 14925, effective September 7, 1989; emergency amendment at 13 Ill. Reg. 16579, effective October 4, 1989, for a maximum of 150 days; emergency expired March 3, 1989; amended at 13 Ill. Reg. 17354, effective October 27, 1989; amended at 14 Ill. Reg. 638, effective January 2, 1990; amended at 14 Ill. Reg. 13529, effective August 13, 1990; emergency amendment at 14 Ill. Reg. 17029, effective September 26, 1990, for a maximum of 150 days; emergency expired February 23, 1991; amended at 15 Ill. Reg. 1487, effective January 22, 1991; amended at 15 Ill. Reg. 13293, effective September 3, 1991; emergency amendment at 15 Ill. Reg. 16745, effective November 5, 1991, for a maximum of 150 days; emergency expired April 3, 1992; amended at 16 Ill. Reg. 570, effective December 31, 1991; amended at 16 Ill. Reg. 12491, effective July 28, 1992; emergency amendment at 16 Ill. Reg. 16672, effective October 15, 1992, for a maximum of 150 days; emergency expired March 9, 1993; emergency amendment at 16 Ill. Reg. 18851, effective November 17, 1992, for a maximum of 150 days; emergency expired April 11, 1993; emergency amendment at 17 Ill. Reg. 1658, effective January 20, 1993, for a maximum of 150 days; emergency expired June 14, 1993; amended at 17 Ill. Reg. 16443, effective September 27, 1993; emergency amendment at 17 Ill. Reg. 18867, effective October 14, 1993, for a maximum of 150 days; emergency expired March 13, 1994; amended at 18 Ill. Reg. 10023, effective June 21, 1994; emergency amendment at 18 Ill. Reg. 15161, effective September 27, 1994, for a maximum of 150 days; emergency expired February 23, 1995; amended at 19 Ill. Reg. 13209, effective September 11, 1995; amended at 20 Ill. Reg. 754, effective

DEC 27 1995

## Section 590.10 Statewide Regulations

- a) Pursuant to Section 2.18 of the Wildlife Code [520 ILCS 5/2.18], it shall be unlawful to take, possess, transport, or use migratory waterfowl except during such period of time and in such manner and numbers as may be provided in the Federal "Migratory Bird Treaty Act" (16 U.S.C. 703-711), the "Migratory Bird Hunting Stamp Act" (16 U.S.C. 1718 et seq.), and annual "Rules and Regulations for Migratory Bird Hunting" (50 CFR 20) (collectively referred to in this Part as federal regulations) (no incorporation in this Part includes later amendments or editions), or contrary to any State regulations made in the Wildlife Code.
- b) The regulations in Section 2.33 of the Wildlife Code on illegal devices shall apply to this rule, unless federal regulations are more restrictive.
- c) Duck, goose and coot regulations are in accordance with Federal Regulations (50 CFR 20) unless the regulations in this rule are more restrictive.
- d) It shall be unlawful while attempting to take migratory waterfowl or coots to have in possession any shotgun shells not approved as non-toxic by federal regulations.
- e) Emergency Closure

The Department of Natural Resources Conservation (Department or DNR)

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880) will close the Canada goose season giving 48 hours notice when quotas established by federal regulations are reached, when harvest in any area is excessive due to extreme weather conditions or when a serious outbreak of infectious disease occurs, such as avian cholera or duck virus enteritis.

## f) Closed Areas

Closed areas, including waterfowl refuges and rest areas, may be designated at certain sites in accordance with 17 Ill. Adm. Code 510. Boundaries of these closed areas will be posted.

## g) Commercial Migratory Waterfowl Hunting Area Permits

1) The holder of a permit shall forward information on harvest and hunters to the Department, on forms furnished by the Department, at times required by the Department. The Department shall give the permit holder reasonable written notice of the dates reports are required. Failure to timely supply such reports will make the permit holder subject to revocation of his permit and suspension of the privilege to hold the permit for up to 5 years.

2) On any property where the principal waterfowl harvest is wild geese, it is the permit holder's duty to ensure that not more than 5 persons occupy or attempt to take wild geese from any blind or pit at the same time.

3) The Department may assign the maximum potential Canada goose harvest (number registered pits x 5 hunters x Canada goose bag limit) to the cumulative quota zone harvest for each day a club is late in reporting.

## h) Waterfowl Hunting Zones:

1) Northern Zone - That portion of the State north of a line running east from the Iowa border along Illinois Route 92 to U.S. Interstate 280, east along U.S. Interstate 280 to U.S. Interstate 80, then east along U.S. Interstate 80 to the Indiana border.

2) Northern Illinois Quota Zone - DuPage, Kane, Lake, and McHenry counties, and those portions of LaSalle and Will counties north of I-80.

3) Central Zone - That portion of the State south of the northern zone boundary to the Modoc Ferry route on the Mississippi River and east along the Modoc Ferry Road to Modoc Road to St. Leo's Road to Illinois Route 3, then north to Illinois Route 159, then north to Illinois Route 161, then east to Illinois Route 4, then north to U.S. Interstate 70, then east along U.S. Interstate 70 to the Indiana border, except that all of Bond, Effingham, and Fayette counties will be excluded from the Central Zone for goose hunting.

4) Central Illinois Quota Zone - Calhoun, Cass, Fulton, Jersey, Knox, Mason, Morgan, Peoria, Pike, Tazewell, and Woodford counties, as well as those portions of LaSalle, Grundy, and Will counties south of I-80.

5) Southern Zone - From the southern boundary of the Central Zone south to the remainder of the State, except that all of Bond,

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Effingham, and Fayette counties will be in the Southern Zone for goose hunting.

6) Fulton-Knox County Canada Goose Zone - Knox County and the following townships in Fulton County: Buckheart, Canton, Cass, Deerfield, Fairview, Farmington, Joshua, Orion, Putnam, and that portion of Banner Township bounded on the north by Illinois Route 9 and on the east by U.S. Route 24.

7) Rend Lake Canada Goose Quota Zone - all lands and waters in Franklin and Jefferson Counties.

8) Northeastern Illinois Canada Goose Zone - All lands and waters in the counties of Cook, Dupage, Grundy, Kankakee, Kane, Kendall, Lake, McHenry and Will.

9) Southern Illinois Quota Zone - (Alexander, Union, Williamson, and Jackson Counties).

i) No person during the open season shall take or attempt to take wild geese in the Rend Lake Canada Goose Quota Zone and Southern Illinois Quota Zone except between legal opening and the hour of 3:00 p.m. except during the last three days of the Canada goose season and during any goose seasons that occur after the Canada goose season, hunting hours shall close at sunset daily.

j) On any property where the principal waterfowl harvest is wild geese in the Rend Lake Canada Goose Quota Zone and the Southern Illinois Quota Zone, no more than 5 persons shall occupy or attempt to take wild geese from any blind or pit at the same time.

k) ~~Persons in possession of geese in excess of twice the daily bag limit when such geese were taken within the quota zones shall tag each individual goose. The tag must contain the hunter's signature and address and the date of kill and the location of the kill.~~

1) The following apply in the Northern and Central Illinois Quota Zones: It is unlawful to hunt Canada geese without having in possession a current season's permit to hunt Canada geese, unless exempt from a State waterfowl stamp. Such permits are not transferable and are not valid unless they contain the hunter's name, signature, date of birth, and the same State waterfowl stamp number that is on the State waterfowl stamp that is signed by the hunter or affixed to his/her license.

2) Immediately upon taking possession of a harvested Canada goose, hunters must punch or slit the permit to hunt to indicate the date of kill (one date for each goose harvested) and zone in which taken. Persons who take 3 Canada geese in the same day must punch or slit the permit on or above the line immediately above the dates where the other 2 geese that were taken were punched.

3) Hunters must report their kill within 24 hours by calling 1-800-WETLAND (938-5263) on a touch tone phone.

l) During any goose seasons that occur after the close of the Canada goose season, Union and Alexander Counties are closed to goose hunting.

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(Source: Amended DEC 27 1995 at 20 Ill. Reg. 1754 effective \_\_\_\_\_)

**Section 590.60 Various Other Department Sites - Duck, Goose and Coot Hunting**

The sites listed in this Section conform to Statewide Regulations (Section 590.10), General Department Regulations (Section 590.30) and the following regulations, except as noted.

**a) Regulations**

- 1) Hunting hours are from legal opening to 1:00 p.m., except hunting shall be permitted until sunset on those sites indicated with by (1) following the location in subsection (b).
- 2) No permanent blinds allowed; all blinds must be of a portable nature and constructed with natural vegetation at the blind site and no pits can be dug. All materials must be removed or dismantled at the end on the day's hunt.
- 3) Portable boat blinds must have been completed, including final brushing, before entering the water and must be removed at the end of the day's hunt.
- 4) Waterfowl hunters must maintain a distance of 200 yards between hunting parties.
- 5) No hunting is permitted within 200 yards of developed recreation areas, public use facilities, and construction or industrial sites and 300 yards from power lines.
- 6) No check station is operated nor is any check in/check out required, except as indicated in the remainder of this Section.
- 7) It shall be unlawful to trespass upon areas designated as waterfowl rest areas or refuges from two weeks prior to the start of waterfowl season through the waterfowl season except as indicated in the remainder of this Section.
- 8) It shall be unlawful to trespass upon the designated waterfowl hunting area during the 7 days prior to the waterfowl season as posted at the site.

**b) Site specific regulations**

- 1) Cache River State Natural Area (1)
- 2) Campbell Pond Wildlife Management Area (1)
- 3) Carlyle Lake Project Lands and Waters
  - A) No one may enter the subimpoundment area before 4:30 a.m. each day of the waterfowl hunting season, and no one may remain in the area after 3:00 p.m. each day of the waterfowl hunting season, except during the last 3 days of the Canada goose season and during any goose seasons that occur after goose season and during any goose seasons that occur after Canada goose season, hunters must be out of the area by one hour after sunset and not return until 4:30 a.m. The subimpoundment area is defined as that area bordered by the Kaskaskia River on the east and south and extending north and west to the Carlyle Lake project boundary, and includes impoundment areas 1, 2, 3, and 4 and the Hurricane Creek

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Area (as defined in subsection (b)(3)(E)).

- B) The waters of Carlyle Lake are defined as the lake and that portion of the Kaskaskia River, northfork, eastfork, Peppenhorst Branch and Allen Branch north of the buoys only, and Hurricane Creek that are within the boundaries of the Carlyle Lake property.
- C) Individual float tubes (not to exceed 42" diameter) and capable of supporting only one person may be used.
- D) Only walk-in hunting shall be permitted in the subimpoundment areas. When the water level in the subimpoundment area is too high (due to flooding) to allow walk-in hunting, Department of Natural Resources ~~Conservation~~ personnel shall post that the area is open to boats and will designate boat launching locations. Boats and electric trolling motors only are allowed only at these times in the subimpoundment areas.
- E) In the subimpoundment areas, compartments 3 and 4 will be waterfowl rest areas during the entire waterfowl season. No waterfowl hunting shall be permitted on Hurricane Creek area which is defined as the area bordered by the Kaskaskia River on the South, D levee on the west, the Texas Oil Company pipeline on the north, and C levee on the east. No hunting within 50 yards of D levee (which surrounds subimpoundment 3) or F levee (which surrounds subimpoundment 4) is permitted. No trespassing will be allowed, except for hunters boating through the Hurricane Creek area to hunt north on Hurricane Creek or in the subimpoundments. At the close of duck hunting season, known eagle protection areas will be posted by the Site Superintendent and will be closed to goose hunting.
- F) Each hunting party is required to hunt over a minimum of 12 decoys. Decoys shall not be left out unattended or after 3:00 p.m. each day of the waterfowl season, except during the last 3 days of the Canada goose season and during any goose seasons that occur after Canada goose season, decoys shall not be left out unattended or later than one hour after sunset.
- G) All waterfowl hunters must register prior to hunting each day of the waterfowl hunting season at the nearest registration box located at the access parking lot. All hunters must sign out and record their harvest daily before they exit the area.
- H) The Army Corps of Engineers may build blinds on Corps managed lands and waters for management purposes only.
- I) During the last 3 days of Canada goose season and during any goose seasons that occur after Canada goose season, hunting hours shall close at sunset daily.

4) Chauncey Marsh (1)



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Permit required, may be obtained at Red Hills State Park Headquarters and must be returned by February 15.

## 5) Clinton Lake (1)

A) Hunters must obtain free permit from site office prior to hunting; hunters must return the permit and report harvest by February 15 of following year or hunting privileges for following season shall be forfeited.

B) Hunting is allowed only from anchored portable boat blinds except no waterfowl hunting is permitted in the area extending from a line between the west side boat ramp and the southern-most point of the central peninsula to the Davenport Bridge.

C) No more than 4 persons shall occupy or use a portable boat blind.

D) Each hunting party is required to hunt over a minimum of 12 decoys.

## 6) Dog Island Wildlife Management Area (1)

Hunters must sign in prior to hunting and sign out reporting harvest at end of each day.

## 7) Donnelley State Wildlife Area

A) Hunting is prohibited on Tuesdays and Wednesdays except open on opening day and on the first Sunday immediately preceding the first firearm deer season as set forth in 17 Ill. Adm. Code 650.10 except as indicated in Section 590.25.

B) Hunting hours start at sunrise.

C) Goose hunting is prohibited after the close of the duck season.

D) All hunting shall be from designated blinds only. Refilling or changing blinds is not permitted.

E) All hunters must report to the check station to fill out an information card and turn in hunting licenses or Firearm Owner's Identification Cards before proceeding to blinds.

F) \$10.00 daily usage stamp must be purchased to hunt this area.

G) No outboard motors are allowed by public - only by authorized DOC personnel.

H) No more than 3 persons shall occupy a blind at any one time.

I) All parties are required to report to check station within 1 hour after termination of hunt or no later than 2:00 p.m.

J) All parties must hunt over a minimum of 12 decoys and a maximum of 48 decoys can be used, which must be removed upon the termination of the hunt.

K) The first weekend and the third Saturday of the waterfowl season shall be designated as youth hunt days. This will consist of youth or youths 15 and under plus one adult per blind. There shall be no charge for the youth on these days. Those blinds not allocated to youths shall be available to adults on those days.

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L) One blind shall be made available by priority claim to "disabled" persons (as defined in Section 2.33 of the Wildlife Code).

## 8) Fox Ridge State Park (1)

Hunting restricted to Embarras River and its flood waters.

## 9) Fort de Chartres Historic Site (1)

A) Hunting is allowed from anchored, portable boat blinds only on a first come-first served basis.

B) Each hunting party is required to hunt over a minimum of 12 decoys which must be removed at the end of each hunting day.

C) Muzzleloading shotguns only.

D) No hunting is allowed during firearm deer season.

## 10) Heidecke State Fish and Wildlife Area, Braidwood Fish and Wildlife Area and Powerton Lake

A) Blind sites shall be allocated on a daily draw basis conducted at the check stations 60 minutes before hunting time. Hunters shall register as parties for the drawing; each party drawn shall be allowed to select blind site in order drawn; only those hunters registered in party shall be allowed to hunt with their party; no more than three hunters per party; persons under the age of 16 shall not be allowed to hunt unless accompanied by an adult.

B) Blind sites not selected during the drawing shall be allocated on a first come-first served basis. Vacant blind sites shall not be allocated after the drawing until one hour after legal hunting time. No blind sites shall be allocated after 10:00 a.m. Hunters wishing to move to another blind site must report this move to the check station attendant in person before such a move.

C) Access to water blind sites must be by boat only and from designated boat launch sites.

D) All hunting must be from portable boat blinds, within 10 yards of the assigned numbered stake or buoy. No more than 3 persons shall use one blind.

E) Upon vacating blind sites, all hunters must report to the check station within 1 hour. At this time, waterfowl bagged must be checked in and displayed to the station operator and hunting licenses returned.

F) Each hunting party is required to hunt over a minimum of 12 decoys. Decoys must be picked up immediately after the hunt is over.

G) Heidecke Lake and Braidwood Lake shall be closed to all fishing and boat traffic except for legal waterfowl hunters from 2 weeks prior to duck season until the close of the waterfowl season. Powerton Lake shall be closed to boat traffic from October 1 to February 15, except for legal waterfowl hunters, and closed to all unauthorized entry during the waterfowl season.

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- H) No hunting on Monday and Tuesday at Heidecke and Braidwood Lakes. No hunting at Powerton Lake on Monday through Thursday except hunting permitted on State holidays.
- I) It is unlawful to hunt waterfowl on the water area in any watercraft less than 16 feet long and 60 inches in beam and without a gas-powered motor.
- J) No guns may be carried from water blinds to retrieve waterfowl that fall on land.
- K) Hunting is closed on Christmas Day and New Year's Day.
- L) All water areas not posted with blind site numbers shall be refuge and are closed to all boat traffic except by authorized personnel.
- M) It is unlawful to shoot across any dike.
- N) Waterfowl hunting shall close with the conclusion of the duck season at Powerton Lake. At Heidecke and Braidwood Lakes waterfowl hunting closes at the end of duck or goose season, whichever is later. No goose hunting is allowed prior to duck season.
- 11) Horseshoe Lake (Alexander County) Daily Drawing Waterfowl Hunting Area Only
- A) Waterfowl hunting shall be permitted only during goose season, except that no hunting is allowed on Mondays, Tuesdays or December 24, 25, 26 and on the day of the Youth Goose Hunt (this site shall be open only for the Illinois Youth Goose Hunt on the first weekday after December 26 other than a Monday, pursuant to Section 590.25).
- B) Hunting shall be done from assigned blinds only.
- C) A daily drawing for assigned blind sites will be held 60 minutes prior to legal hunting hours at the check station each day hunting is allowed. For the drawing, hunters must register as a party; no more than two people per party are permitted.
- D) Hunters must deposit their license prior to going to their blinds.
- E) Hunters must park in assigned, designated areas only.
- F) Hunters must hunt over a minimum of 12 Canada goose decoys.
- G) Hunters must return to the check station and report their harvest by 2:00 p.m.
- H) Hunters may not possess more than 5 shells for each Canada goose or subspecies allowed in the daily bag.
- I) Hunters cannot move from blind to blind, nor leave the assigned blind to shoot crippled geese; hunters may leave the assigned blind to retrieve crippled geese, but must leave their guns in the blind.
- 12) Horseshoe Lake (Alexander County) Public Hunting Area
- 13) Horseshoe Lake Refuge (no hunting allowed, no boat motors except trolling motors will be allowed on Horseshoe Lake from October 15 to March 1)

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- 14) Joliet Army Ammunition Plant (Will County)
- A) Hunters must check out by 2:00 p.m. A daily drawing will be held at the check station 60 minutes prior to legal hunting hours on each day hunting is allowed. A daily fee of \$5.00 per person will be charged for waterfowl hunting.
- B) Only walk-in hunting will be permitted; blinds must be portable in nature or constructed of natural materials located at the blind site, and must be removed at the end of the day's hunt. A maximum of 3 hunters per blind will be allowed.
- C) The site shall be closed to waterfowl hunting on Mondays, Tuesdays, Fridays, Thanksgiving, Christmas, New Year's Day, and during site firearms deer hunts.
- D) Waterfowl hunters must hunt within 50 feet of the blind location marker. All movement on-site must be directly between the check station and blind location. Entry into restricted areas shall result in the loss of hunting privileges at the site for the remainder of that season.
- 15) Kaskaskia River Fish and Wildlife Area
- A) No waterfowl hunters may remain in the area after 3:00 p.m. For those lands lying south of Illinois Route 154 and north of Illinois Route 13, the legal hunting hours shall be from statewide opening hour until statewide closing hour.
- B) All waterfowl hunting parties must use at least 12 decoys. Hunting is allowed on a first come-first served basis.
- C) It is unlawful to leave duck and goose decoys unattended. Decoys must be picked up at the end of each day's hunt.
- D) Between the Highway 13 and Highway 154 bridges, all hunters are required to sign out and report harvest daily at the nearest check station.
- E) The following regulations apply to the Doza Creek Waterfowl Management Area:
- i) No waterfowl hunters may enter the area before 3:00 a.m. each day of the waterfowl hunting season. No waterfowl hunters may remain in the area after 3:00 p.m.
- ii) Only waterfowl, coot and archery deer (as provided by 17 Ill. Adm. Code 670) hunting allowed in this area during the duck hunting season; goose hunting is closed during the second firearm deer season if the second firearm deer season occurs after duck season.
- 16) Kidd Lake State Natural Area (1)
- 17) Kinkaid Lake Fish & Wildlife Area (1)
- 18) Lake Shelbyville (except for land/waters covered in subsection 590.60(b)(19)) (1)
- 19) Lake Shelbyville West Okaw and Kaskaskia Fish and Wildlife Area
- A) Waterfowl hunting shall be permitted as described below except in duly posted restricted and "No Hunting" areas.

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- B) Waterfowl hunting in the Fish Hook, the North Dunn, the McGee, and the Jonathan Creek Waterfowl Areas shall be allotted by a daily drawing from opening day through the first Saturday and Sunday of the regular waterfowl season. Parties must register for drawings between 3:00 a.m. and 4:00 a.m. Central Standard Time at the check station on those days. Each party drawn shall be allowed to choose one of the staked sites in the waterfowl area. Parties must select sites in the order they are drawn. Maximum party size is 4 persons. In addition, the following regulations shall apply:
- All parties must hunt within 10 yards of their assigned stake.
  - All parties must be in place by one-half hour before hunting time.
  - All parties are required to report their harvest by 2:00 p.m. following each hunt.
- C) Hunting in the Jonathan Creek, North Dunn and McGee Waterfowl Areas shall be restricted to designated, staked sites on a first come-first served basis except as noted in subsections (A) and (B) above. A hunting party must hunt within 10 yards of the stake.
- D) Each hunting party in the Fish Hook, Dunn, Jonathan Creek and McGee Waterfowl Areas are required to hunt over a minimum of 12 decoys.
- E) Motors of over 10 horsepower shall not be operated in the Fish Hook, Jonathan Creek, Dunn, and McGee Waterfowl Areas.
- F) Waterfowl hunting only is permitted in the Fish Hook, Dunn, Jonathan Creek and McGee Waterfowl Areas during the regular waterfowl season, except that pheasant, rabbit and quail hunting is permitted after 1:00 p.m. daily beginning the day after the close of the Central Zone Duck Season.
- G) During the regular waterfowl season, no bank or boat fishing shall be permitted on the Kaskaskia River from the Strickland Boat Access north to the Illinois Central Railroad bridge from one-half hour before sunrise until 1:00 p.m.
- H) A free permit is required, which is obtained from the site office. Permits must be in possession while hunting waterfowl. The permit must be returned and harvest reported by February 15 or the hunter will forfeit his hunting privileges at this site for the following year.
- 20) Meredosia Lake - Cass County Portion Only (meandered waters only)
- All boat traffic is prohibited from operating on meandered waters (except non-motorized boats may be used to assist in the retrieval of waterfowl shot from private land) from the period from one week before waterfowl season opens until the season closes.

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- B) Hunting and/or any other activity is prohibited during the period from one week before waterfowl season opens until the season closes.
- 21) Mernnet
- Waterfowl hunting shall be permitted only during the duck hunting season.
  - Hunting is allowed in both the walk-in and blind areas only. Those individuals wishing to hunt in the walk-in area are required to deposit their hunting licenses and register at the check station prior to entering the area. Individuals who wish to use the blind area are required to deposit their hunting licenses and participate in a daily drawing during which blinds shall be assigned. Hunting parties shall not change blinds without prior approval from the check station operator. Those persons exempted by law from having hunting licenses must deposit their Firearm Owner's Identification Cards.
  - The daily drawing shall be held one hour prior to legal opening time.
  - All members of the hunting party shall register as a group (not to exceed 4 persons per group) for the purpose of the drawing.
  - Those hunters in the blind area shall park in designated areas. These parking areas shall be numbered to correspond with particular blind sites located along the levee road.
  - In the blind area, a minimum of 12 decoys per blind is required while hunting waterfowl.
- 22) Oakford Conservation Area (1)
- 23) Pike County Conservation Area (1)
- Statewide season regulations apply except that the season closes November 30 in Area A and December 15 in Area C, or the legal statewide closing, whichever is earlier.
- 24) Rend Lake Project Lands and Waters
- All waterfowl hunters and all boats must be out of the Casey Fork and Big Muddy subimpoundments by 2:00 p.m. each day of the waterfowl season and not return until 4:30 a.m., except during the last 3 days of the Canada goose season, and during any goose season occurring after the Canada goose season, hunters must be out of the areas by one hour after sunset and not return until 4:30 a.m.
  - No hunting permitted from the subimpoundment dams.
  - No waterfowl hunting permitted within 200 yards of the refuge boundary, or within 100 yards of any private property boundary.
  - No waterfowl hunting permitted within 200 yards of any Whistling Wings Access Area daily drawing blind/pit.
  - All boat traffic is prohibited from entering the duly posted waterfowl refuge and the subimpoundments from 1 week before



## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

- waterfowl season until March 1.
- F) All waterfowl hunters must sign in prior to hunting and sign out and report their harvest at the end of each day's hunt.
- G) Permanent blinds at the Whistling Wings Access Area shall be regulated as follows:
- i) During goose season, a separate drawing will be held for the 4 pits at Whistling Wings. This drawing will be held at 4:30 a.m. daily at the Bonnie Dam Access Area. Hunters may not register for more than one drawing per day.
  - ii) Hunters who wish to hunt together must register as a hunting party and be present at the drawing.
  - iii) Two standby parties will be drawn for pit refill after move-up of initial hunting parties, in the reverse order of the order the pits were drawn.
  - iv) No more than four (4) dozen decoys may be used per pit.
  - v) No more than four (4) hunters will be allowed in a pit or hunting party.
- H) Each hunting party is required to hunt over a minimum of 12 decoys at each blind site, and all decoys must be picked up at the end of each day's hunt.
- I) During the last 3 days of Canada goose season and during any goose seasons occurring after Canada goose season, hunting hours shall close at sunset daily.
- J) The land portion of the Rend Lake Refuge is closed to trespassing during waterfowl season. The location of the Rend Lake Refuge is described as follows:
- i) Bounded on the south by a buoy line, approximating the Jefferson-Franklin County Line.
  - ii) Bounded on the east by a buoy line and/or signs approximating the channel of the Casey Fork Creek.
  - iii) Bounded on the west by a buoy line and/or signs approximating the channel of the Big Muddy River.
  - iv) Bounded on the north portion of the Big Muddy River by a buoy line and/or signs approximating a line which would extend west from Ina, Illinois.
  - v) Bounded on the north portion of the Casey Fork Creek by the Casey Fork Subimpoundment Dam.
  - vi) Bounded on Nason Point by refuge boundary signs at project limits.
- K) After the close of duck season, goose hunters may not possess more than 5 shotgun shells for each Canada Goose allowed in the daily bag.
- L) Staked Hunting Areas - Those areas designated as a staked hunting area will be publicly announced and the following regulations will apply:
- i) All hunting must occur within 10 yards of an assigned,

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

- numbered stake and only one hunting party may occupy a staked site at any given time.
- ii) Stakes will be assigned via a daily drawing held at 4:00 a.m. during November and at 4:30 a.m. during the remainder of the season at locations to be publicly announced. Check stations will be open from 1/2 hour before drawing time to 9:30 a.m. daily.
  - iii) Hunters who wish to hunt together at a staked location must register as a hunting party and be present for the drawing. Only those persons in that party may hunt at the assigned stake. No more than five (5) persons shall be in a hunting party.
  - iv) Hunters (including those who are not drawn in the 4:30 a.m. drawing) will not be allowed to enter the staked area until 9:00 a.m. No hunting party may enter the staked area after 9:30 a.m. Hunters will not be allowed to enter the staked area between 9:00 a.m. and 9:30 a.m. unless there are vacant staked hunting locations.
  - v) When a staked hunting location is vacated by a hunting party any other registered hunting party may claim the vacant stake on a first come-first served basis.
  - vi) When hunting parties have killed their legal daily bag limit of ducks (not including coots and mergansers) and/or Canada geese in respect to the legal hunting season dates they must vacate the hunting site.
  - vii) Hunters must sign in and out and report their harvest on the cards at the access area where they launch.
- 25) Saline County Conservation Area (1)
- A) Waterfowl hunting is allowed north of the township road only.
  - B) Walk-in hunting only.
  - C) Hunters must sign in prior to hunting and sign out reporting harvest at the end of each day.
- 26) Sangamon Conservation Area (Walk-in Areas)
- A) Hunters using the walk-in area shall use the check station at the headquarters area located 8 miles northwest of Chandlerville just off Route 78 or the check station on the west side of the Illinois River one mile north of Browning near Route 100.
  - B) Walk-in waterfowl hunting shall be permitted only in the area posted for this purpose.
  - C) All hunters using a walk-in area must report to the check station to fill out information cards and to turn in hunting licenses or Firearm Owner's Identification Cards before proceeding to area.
  - D) Upon the completion of hunting, hunters must report to the check station within one hour.

## DEPARTMENT OF NATURAL RESOURCES

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- E) Fishing is prohibited in the impoundment areas during the waterfowl season.
- F) No person shall trespass on the Barkhausen Refuge during the period from October 1 through end of goose season.
- G) No person shall trespass on the Marion-Pickertel Waterfowl Refuge during the period from October 1 through the last day of the waterfowl season, unless prior permission for a specific reason (such as access to private land or to retrieve dead or wounded game) is granted by the site superintendent.
- H) When the central zone goose season extends beyond the duck season, goose hunting shall be permitted with statewide hunting hours in effect. Hunters need not occupy a blind. All hunting must be conducted within non-refuge areas.
- I) No hunting permitted from the walk-in area subimpoundment levee.
- 27) Sangchris Lake State Park
- A) During the last 3 days of Canada goose season, hunting hours will close at statewide closing.
- B) Blind sites shall be allocated by a daily drawing to be conducted 90 minutes prior to hunting time. Blind sites not selected during the drawing (or in the event that personnel are not available to conduct the drawing) shall be allocated on a first come-first served basis. (During that portion of the goose season which follows the duck season, the west arm blind sites and east arm blind sites south of power lines shall be available for goose hunting and shall be allocated on a daily drawing basis to be held at 5:30 a.m. daily.)
- C) All hunting must be from registered blind sites only and hunters must occupy their blinds within one hour after registering at the check station.
- D) Upon vacating their blinds, hunters must place their completed harvest cards in the collection boxes located at either the east or west boatdock.
- E) There will be a duly posted waterfowl refuge. These areas shall be closed to all boat traffic (except as allowed in subsection (b)(27)(J)) and boat fishing during the waterfowl season. Bank fishing along the dam shall be permitted.
- F) No more than 4 persons shall occupy a blind at one time.
- G) The center arm of the lake shall be closed to all waterfowl hunting.
- H) Blind sites shall be determined by the Department of Natural Resources Conservation and marked with a numbered stake. When it is deemed necessary, the Department of Natural Resources Conservation shall remove, move or close blind sites in order to carry out the operations of the overall management program.
- I) Hunters wishing to move to another blind location may do so

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- after 10 a.m. providing they include the blind change on the harvest card and report their kill for each blind.
- J) Access to blind sites shall be by boat only and from designated boat launch sites. Corridors located along the edges of the existing refuge will be established to provide access to all available blind sites as designated by site superintendent when conditions warrant.
- K) All hunting must be from 1 portable blind or 1 anchored portable boat blind located within a numbered cove and between the assigned numbered stakes.
- L) Crippled waterfowl that fall on land, other than areas designated as refuge, shall be retrieved by foot. However, no gun may be carried while attempting to recover such birds.
- M) No pits or blinds shall be built on State leased or Commonwealth Edison land.
- N) Blind sites: A position between two like numbered stakes within a cove where a blind may be located.
- O) Fishing shall be prohibited in the east and west arms of the lake during the period from 10 days prior to the duck season through the end of the duck season. Fishing shall be prohibited in the west arm of the lake and the east arm of the lake south of the power lines during that portion of the goose season that follows the duck season.
- P) Each party must hunt over a minimum of 12 decoys, and all decoys must be removed at the end of each day's hunt.
- Q) When it is deemed necessary for public safety reasons, such as flooding, high winds, or heavy fog, the Department of Natural Resources Conservation will close the lake area to all fishing and all boating activity except for non-water hunting programs.
- R) During flood conditions, waterfowl hunters may hunt the tailwaters of Sangchris Lake dam including Clear Creek and the South Fork of the Sangamon River. Decoys must be removed at the end of each day's hunt.
- 28) Shawnee National Forest, Upper and Lower Bluff Lakes  
Goose hunting is prohibited.
- 29) Shawnee National Forest, LaRue Scatters  
All hunting must be by walking in or in boats without motors.
- 30) Shawnee National Forest, Oakwood Bottoms (Green Tree Reservoir west of the Big Muddy levee)  
A) All hunting must be by walking into the area.  
B) Each hunting party must hunt over a minimum of 12 decoys in Compartments 19, 20 and 21.  
C) No person shall tamper with or attempt to manipulate any of the gates, pumps or structures in the sub-impoundment area.
- 31) Stephen A. Forbes State Park  
A) On the main lake hunting is allowed from a boat blind only

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

- in the designated areas.
- B) Only walk-in hunting is allowed in the sub-impoundment.
- C) Hunting shall be allowed on a first come-first served basis. All hunters must use 12 decoys, minimum.

## 32) Ten Mile Creek Fish and Wildlife Area (1)

- A) Waterfowl hunters must obtain permits prior to hunting. Permits must be returned by February 15.
- B) Each hunting party is required to hunt over a minimum of 12 decoys at each blind site, and all decoys must be picked up at the end of each day's hunt.

- C) Areas designated as Rest Areas are closed to all access during the Canada Goose Season only. Rest Area designation has been given to that part of the Belle River unit that lies south of Auxier Creek and is posted as Rest Area, and the 250 acre tract at the Western edge of the Eads Mine unit.

- D) After the close of the duck season, goose hunters in that portion of Ten Mile Creek that lies in the Rend Lake Quota Zone may not possess more than 5 shotgun shells for each Canada Goose allowed in the daily bag.

## 33) Turkey Bluffs State Fish and Wildlife Area (All hunters must sign in and out and report kill) (1)

- A) Union County (Firing Line Waterfowl Management Area)
- A) It shall be unlawful to take a gun beyond the posted boundary while retrieving crippled geese.

- B) During goose season waterfowl hunters may not possess more than 5 shells for each Canada Goose allowed in the daily bag.

- C) During goose season hunting from staked sites only.

(Source: Amended at 20 Ill. Reg. 754, effective DEC 27 1995)

### Section 590.80 Snow, Blue and Ross' Goose Hunting Regulations on Department Sites

- a) During goose hunting seasons that extend beyond the Canada goose season, statewide regulations and site specific regulations for Canada goose hunting, as indicated in Sections 590.40, 590.50 and 590.60, shall apply at all sites (except those listed as closed in subsection (b)) with the following exceptions:

- 1) Hunters shall not be required to check in and check out.
- 2) Hunters shall not be required to sign in and sign out.
- 3) At those sites where hunters are required to salvage materials by February 1, hunting may occur outside registered blinds as long as hunting parties stay at least 200 yards apart.
- 4) Statewide hunting hours shall apply.
- 5) No fees will be charged for hunting.

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

- 6) No sites are closed to fishing.
- b) The following sites shall be closed to goose hunting during seasons that extend beyond the Canada goose season:

## Region 1

Banner Marsh  
Rice Lake  
Anderson Lake  
Spring Lake  
Donnelly - DePue  
Powerton

## Region 2

Kankakee River State Park  
Heidecke Lake  
Braidwood - Mazonia  
William Powers

## Region 3

Lake Shelbyville - Federal Lands  
Lake Shelbyville - Kaskaskia Unit  
Lake Shelbyville - West Okaw Unit  
Clinton Lake

## Region 4

Sangchris Lake  
Ray Norbut

## Region 5 (Union and Alexander Counties Closed)

Horseshoe Lake Conservation Area  
Union County Conservation Area  
Upper and Lower Bluff Lakes

(Source: Added at 20 Ill. Reg. 754, effective DEC 27 1995)



## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Relocation Assistance and Payments Program
- 2) Code Citation: 17 Ill. Adm. Code 2575
- 3) Section Numbers:      Adopted Action:  
2575.10                  New Section  
2575.15                  New Section
- 4) Statutory Authority: Implementing and authorized by Sections 1 through 5 of the Displaced Person Relocation Act [310 ILCS 40/1-5], Section 3 of the State Forest Act [525 ILCS 40/3], Section 2 of the State Parks Act [20 ILCS 835/2], Section 1.9 of the Wildlife Code [520 ILCS 5/1.9] and Section 7.05 of the Illinois Natural Areas Preservation Act [525 ILCS 30/7.05].
- 5) Effective Date of Rulemaking: December 29, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: December 27, 1995
- 9) Notice of Proposal Published in Illinois Register: September 22, 1995, 19 Ill. Reg. 13156
- 10) Has JCAR issued a Statement of Objections to these rules? No

- 11) Difference(s) between proposal and final version: Corrections were made to the Statutory Authority.

In Section 2575.10, "for" was added following "provide."

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

- 13) Will this rulemaking replace an emergency rule currently in effect? No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Rulemaking: This Part provides a means for providing relocation services and a means for making moving cost payments, replacement housing cost payments, and other expense payments to displaced persons or businesses.

- 16) Information and questions regarding these adopted rules shall be directed to:

Name: Jack Price

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED RULES

Address: Department of Natural Resources  
524 S. Second Street, Room 430  
Springfield, IL 62701-1787  
Telephone: 217/782-1809

The full text of the Adopted Rule begins on the next page:

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED RULES

TITLE 17: CONSERVATION  
 CHAPTER I: DEPARTMENT OF NATURAL RESOURCES CONSERVATION  
 SUBCHAPTER f: ADMINISTRATIVE SERVICES

## PART 2575

## RELOCATION ASSISTANCE AND PAYMENTS PROGRAM

## Section

2575.10 Purpose

2575.15 Incorporation by Reference

**AUTHORITY:** Implementing and authorized by Sections 1 through 5 of the Displaced Person Relocation Act [310 ILCS 40/1-5], Section 3 of the State Forest Act [525 ILCS 40/31], Section 2 of the State Parks Act [20 ILCS 835/2], Section 1.9 of the Wildlife Code [520 ILCS 5/1.9] and Section 7.05 of the Illinois Natural Areas Preservation Act [525 ILCS 30/7.05].

**SOURCE:** Adopted at 20 Ill. Reg. 774, effective 09/09/95.

## Section 2575.10 Purpose

The purpose of this Part is to provide for relocation and reestablishment of persons, businesses, farm operations and nonprofit organizations displaced as a result of the acquisition of land for State conservation projects. This Part is intended to establish a means of providing relocation services and of making moving cost payments, replacement housing cost payments, and other expense payments in order that such displaced persons or businesses do not suffer disproportionate injuries as a result of programs designed to assure compliance with federal requirements in order to assure federal participation on federally-aided projects.

## Section 2575.15 Incorporation by Reference

Procedures for relocation assistance and payments shall be the same as found in Title 49 of the Code of Federal Regulations, Part 24, as published in the Federal Register on March 2, 1989 and amended in the Federal Register on April 30, 1993 (no incorporations in this Part include later amendments or editions).

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: The Taking of Wild Turkeys - Spring Season

2) Code Citation: 17 Ill. Adm. Code 710

3) Section Numbers: Adopted Action:

710.10

Amendments

710.20

Amendments

710.25

Amendments

710.30

Amendments

710.50

Amendments

4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11].

5) Effective Date of Rulemaking: December 29, 1995

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: December 27, 1995

9) Notice of Proposal Published in Illinois Register: September 22, 1995, 19 Ill. Reg. 13158

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version:

All references to "Department of Conservation" were changed to "Department of Natural Resources."

In Section 710.10(c), the spelling of "Vermillion" was corrected.

In Section 710.50(c), "season" was changed to "seasons."

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking:

This Part was amended to update season dates and regulations for the 1996 season.

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

16) Information and questions regarding these adopted amendments shall be directed to:

Name: Jack Price  
 Address: Department of Natural Resources  
 524 S. Second Street, Room 430  
 Springfield, IL 62701-1787  
 Telephone: 217/782-1809

The full text of the Adopted Amendment begins on the next page:

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION  
 CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES CONSERVATION  
 SUBCHAPTER 1B: LAW ENFORCEMENT FISH-AND-WILDLIFE

## PART 710

## THE TAKING OF WILD TURKEYS - SPRING SEASON

Section	Hunting Zones
710.5	Hunting Seasons
710.10	Statewide Turkey Permit Requirements
710.20	Turkey Permit Requirements - Special Hunts (Renumbered)
710.21	Turkey Permit Requirements - Landowner/Tenant Permits
710.22	Turkey Permit Requirements - Special Hunts
710.25	Turkey Hunting Regulations
710.30	Other Regulations (Repealed)
710.40	Regulations at Various Department Owned or Managed Sites
710.50	Releasing or Stocking of Turkeys
710.60	

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11].

SOURCE: Adopted at 4 Ill. Reg. 15, p. 153, effective April 1, 1980; codified at 5 Ill. Reg. 10643; amended at 6 Ill. Reg. 3852, effective March 31, 1982; amended at 7 Ill. Reg. 4208, effective March 25, 1983; amended at 8 Ill. Reg. 5663, effective April 16, 1984; amended at 9 Ill. Reg. 6200, effective April 24, 1985; amended at 10 Ill. Reg. 6848, effective April 4, 1986; amended at 11 Ill. Reg. 2267, effective January 20, 1987; amended at 12 Ill. Reg. 5342, effective March 8, 1988; amended at 13 Ill. Reg. 5090, effective April 4, 1989; amended at 14 Ill. Reg. 663, effective January 2, 1990; amended at 15 Ill. Reg. 4161, effective March 4, 1991; amended at 16 Ill. Reg. 1843, effective January 17, 1992; amended at 17 Ill. Reg. 3184, effective March 2, 1993; amended at 18 Ill. Reg. 1156, effective January 18, 1994; emergency amendment at 18 Ill. Reg. 3751, effective March 1, 1994, for a maximum of 150 days; emergency expired July 29, 1994; amended at 19 Ill. Reg. 2450, effective February 17, 1995; emergency amendment at 19 Ill. Reg. 5312, effective April 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 777, effective DEC 29 1995.

## Section 710.10 Hunting Seasons

- a) Northern Zone Season Dates:
- |             |  |
|-------------|--|
| 1st Season: | Monday, April 15 to Friday, April 19, 1996 to 1995     |
| 2nd Season: | Saturday, April 20 to Thursday, April 25, 1996 to 1995 |
| 3rd Season: | Friday, April 26 to Friday, May 3, 1996 to 1995        |



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- 4th Season: Saturday, May 4 April--29 - Wednesday, May 15, 1996 107-1995
- b) Southern Zone Season Dates:  
1st Season: Monday, April 8 3, - Friday, April 12, 1996 77 1995
- 2nd Season: Saturday, April 13 6 - Thursday, April 18, 1996 137-1995
- 3rd Season: Friday, April 19 14 - Friday, April 26, 1996 217 1995
- 4th Season: Saturday, April 27 22 - Wednesday, May 8, 1996 37-1995

## c) Open Counties:

## NORTHERN ZONE

Adams  
Brown  
Bureau  
Calhoun  
Carroll  
Cass  
Clark  
Coles  
Cumberland  
Fulton  
Greene  
Hancock  
Henderson  
Jersey  
Jo Daviess  
Knox  
Lee  
Macoupin  
Marshall-Putnam  
Mason  
McDonough  
Menard  
Mercer  
Montgomery  
Morgan  
Ogle  
Peoria  
Pike  
Rock Island  
Schuyler  
Scott  
Shelby  
Stephenson

(east--of--Illinois--River--only, north-of  
State-Highway-17-and-south-of-the--McNabb  
Blacktop-(County-Road-560-N-)-only)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

Tazewell  
Vermilion  
Whiteside  
Winnebago  
Woodford  
SOUTHERN ZONE  
Alexander  
Bond  
Clay  
Clinton  
Crawford  
Effingham  
Fayette  
Hamilton  
Gallatin-Hardin  
Jackson  
Jasper  
Jefferson  
Johnson  
Lawrence  
Madison  
Marion  
Monroe  
Perry  
Pope  
Pulaski  
Randolph  
Richland  
Saline  
St. Clair  
Union  
Washington  
Wayne  
Williamson

(Source: Amended 1995 at 20 Ill. Reg. 177, effective  
DEC 29 1995)

## Section 710.20 Statewide Turkey Permit Requirements

- a) To take, or attempt to take, a wild turkey, Illinois residents must first obtain a "Wild Turkey Hunting Permit" from the Department of Natural Resources Conservation for a fee of \$15.00. Non-resident turkey hunters shall be charged \$75.00 for the first wild turkey hunting permit, and \$25.00 for each additional permit. Residents, except those exempted by Section 3.1 of the Wildlife Code [520 ILCS 5/3.1] are also required to obtain a hunting license before hunting wild turkey. Permits are issued for a specific county or area and are

## DEPARTMENT OF NATURAL RESOURCES

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valid only in the county or area designated on the permit. Applications for wild turkey permits must be mailed to:

Department of Natural Resources ~~Conservation~~ - Turkey  
524 S. Second Street, Room 210  
P.O. Box 19446

Springfield, Illinois 62794-9446

- b) Applicants must complete all portions of the permit application form. Incomplete applications will be rejected and fees returned. Each applicant must submit a personal check or money order for his/her individual application. Not more than 4 applications may be submitted for group hunters. Applicants submitting applications within three weeks of the season will not be guaranteed receipt of permit by start of season.
- c) Applications from Illinois residents will be accepted from the first working day after New Year's Day until the tenth working day of the month. Applications received in the permit office that are postmarked after the tenth working day will be returned and will not be included in the computerized drawing. All requests must be on an official application form. Permits are not transferable and refunds will not be granted. Permits will be allocated in a computerized drawing to be held in Springfield in which the first choice of seasons will be allocated before the second or third choices are considered. Applicants rejected in this drawing will receive preference in the next year's drawing for spring season permits subject to guidelines outlined in subsection (f).
- d) Permits not issued during the computerized drawing will be available in a random daily drawing beginning the first Wednesday after February 10. ~~Starting dates of the random daily drawing will be publicly announced.~~ All hunters not receiving a permit in the computerized drawing and non-residents may apply at this time for the available permits.
- e) Any permits not issued as of the second Monday in March will also be available in a random daily drawing to those hunters who have previously received one permit.
- f) The following criteria must be met to obtain preference in the computerized drawing:
- 1) The applicant must apply using the official agency application.
  - 2) The applicant must be a resident of the State, be eligible to receive a spring turkey permit, and not had turkey hunting privileges revoked.
  - 3) The applicant must apply for the same county and season choices which he/she listed on the previous year's application. Preference will not be granted for special hunt areas as listed in Section 710.25 or for permit areas listed in Section 710.50(c).
- g) ~~A \$3.00 service fee will be charged for replacement permits issued by the Department.~~
- h) ~~It shall be unlawful to:~~

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## NOTICE OF ADOPTED AMENDMENTS

- 1) Submit applications before the second Monday in March for receiving more than one permit for the same person, and thereafter, submittal of applications for receiving more than three permits for the same person. Applicants may apply for up to two additional permits prior to the second Monday in March if the application and the outside of the envelope are marked "Application for March Drawing - Additional Permit." Such applications will not be processed until the second Monday in March.
- 2) Provide false and/or deceptive information on a permit application form. In addition to criminal charges, individuals found guilty of violating this section shall have their application rejected, permit revoked, and fees forfeited.

(Source: Amended ~~1994~~ at 20 Ill. Reg. ~~1/1~~, effective ~~DEC 23 1993~~)

## Section 710.25 Turkey Permit Requirements - Special Hunts

- a) Special hunt sites are defined as those sites which are owned or controlled by agencies/entities other than the Department, or sites at which the Department only controls a portion of the property designated for turkey hunting, which issue turkey hunting permits through the statewide lottery process. The Permit Office issues turkey hunting permits through a computerized drawing for sites listed below, in addition to the Department-owned or -managed sites listed in Section 710.50(c).

Savanna Army Depot (Jo Daviess County)

- b) Each applicant must enclose a separate fee (check or money order) payable to the Department of Natural Resources ~~Conservation~~, or the application will be returned. Applicants should not send cash with their applications. The Department will not be responsible for cash sent through the mail.

(Source: Amended at 20 Ill. Reg. ~~1/1~~, effective ~~DEC 23 1993~~)

## Section 710.30 Turkey Hunting Regulations

It is unlawful:

- a) to use live turkey decoys, recorded calls, dogs, or bait (an area is considered as baited during the presence of and for 10 consecutive days following the removal of the bait);
- b) to take any wild turkey except a hen with a visible beard or a gobbler (male);
- c) to take, or attempt to take, more than three wild turkeys during the spring season, one must have a valid permit for each turkey that is taken;

## DEPARTMENT OF NATURAL RESOURCES

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- d) to use any weapon except a shotgun or bow and arrow. #4 shot is the largest and #7 1/2 is the smallest size shot that may be legally used. Archers may use a long, recurved, or compound bow with a minimum pull of 40 pounds at some point within a 28-inch draw; an arrow with a metal barbed broadhead that cannot pass through a 7/8 inch diameter hole is the only legal arrow. Any mechanical device capable of maintaining a drawn position or partially drawn position on a bow is illegal. All other bows and arrows, including electronic arrow tracking systems, are illegal;
- e) to hunt except from 1/2 hour before sunrise to noon during each day of the season;
- f) for any person having taken the legal limit of wild turkey(s) to further participate with a weapon in any hunting party for the purpose of taking additional wild turkeys;
- g) for any person to possess while in the field during wild turkey season any turkey permit issued to another person (permits are non-transferable);
- h) to transport or leave a wild turkey without first affixing the adhesive-backed turkey permit securely around the leg. Leg tag must be affixed to the turkey immediately upon kill and before the turkey is moved, transported or field dressed. The wild turkey shall be taken whole (or field dressed) to the designated check station for the county in which it was killed, or the closest check station, by the hunter in person, by 2:00 P.M. the same day it was killed. It will be checked, tagged and recorded by the Department at the check station;
- i) for any person to shoot a wild turkey while it is in a tree before 7:00 a.m.;
- j) for any person to hunt wild turkeys without possessing a Wild Turkey Hunting Permit which shall include the hunter's signature, date of birth, Firearm Owner's Identification number (unless exempt), hunting license number (unless exempt) and physical description recorded on the permit and carried on the person while hunting;
- k) for any person to use a turkey call that imitates sounds made by a turkey or to attempt to call a turkey by making these sounds while in the field from March 15 through the day before turkey season in counties open to turkey hunting.

(Source: Amended at 20 Ill. Reg. 377, effective 1/1/77)

## Section 710.50 Regulations at Various Department Owned or Managed Sites

- a) Hunters must sign in/sign out at all sites in subsections (b) and (c) which are followed by a (1).
- b) Statewide regulations shall apply for the following sites:  
Anderson Lake Conservation Area (1)  
Argyle Lake State Park (1)

## DEPARTMENT OF NATURAL RESOURCES

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- Cache River State Natural Area ~~Battle-Black-Slough--Hunting--Area~~ (1)
- Campbell Pond Wildlife Management Area
- Carlyle Lake Wildlife Management Area
- Dog Island Wildlife Management Area (1)
- Fort de Chartres State Historic Site (muzzleloading shotgun or archery only) (1)
- Franklin Creek State Park (1)
- Giant City State Park (1)
- Green-River-State-Wildlife-Area--(1)
- I-24 Wildlife Management Area (1)
- Jubilee State Park (archery only) (1)
- Kaskaskia River State Fish and Wildlife Area (except for that area lying north of Highway 154, east of the Kaskaskia River, and south of the Risdon School Road and Beck's Landing access road) (1)
- Kinkaid Lake Fish and Wildlife Area (1)
- Mark Twain National Wildlife Refuge, Gardner Division
- Mississippi River Fish and Wildlife Area (Pools 21, 22, 24, 25, 26)
- Mississippi River Pools 16, 17 & 18
- Oakford Conservation Area
- Pere Marquette State Park (designated area only) (1)
- Pike-County-Conservation-Area--(1)
- Ray Norbut Fish and Wildlife Area (1)
- Rend Lake State Fish and Wildlife Area
- Sam-Beie-Lake-Conservation-Area--(1)



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Saline County Fish and Wildlife Area (1)

Sanganois Conservation Area

Trail of Tears State Forest (1)

Turkey Bluffs State Fish and Wildlife Area (1)

Union County Conservation Area - Firing Line Unit and Public Hunting Area only (1)

Weinberg-King State Park (1)

Wildcat Hollow State Forest (1)

c) Statewide regulations shall apply except that all hunting is allowed by site-specific permit only. The Department of Natural Resources conservation allocates permits for these areas through the lottery process set forth in Section 710.20. This permit is only valid for the specific site and season indicated on the permit.

Beaver Dam State Park

Big Bend State Fish and Wildlife Area

Big River State Forest (1)

Castle Rock State Park (1)

Chauncey Marsh

Crawford County Conservation Area

Fern Clyffe State Park (1)

Fox Ridge State Park (first 2 seasons only) (1)

Hamilton County Conservation Area

Hidden Springs State Forest (first 2 seasons only) (1)

Kickapoo State Park (1)

Lake Shelbyville-Corps of Engineers Managed Lands (Shelby County)

Lowden Miller State Forest (1)

Mackinaw River Fish and Wildlife Area (1)

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Middlefork Fish and Wildlife Management Area (1)

Mississippi Palisades State Park (1)

Newton Lake State Fish and Wildlife Area

Panther Creek Conservation Area ‡†

Pere Marquette State Park (Piasa, Quotoga, Potawatomi Camp Areas) (no hunting allowed on weekends)

Pyramid State Park (1)

Ramsey Lake State Park (1)

Randolph County Conservation Area (1)

Red Hills State Park

Sam Dale Lake Conservation Area (1)

Sam Parr State Park

Sand Ridge State Forest ‡†

Sanganois Conservation Area (Squirrel Timber Unit) (1)

Siloam Springs State Park (1)

Site M

Stephen A. Forbes State Park (1)

Tapley Woods State Natural Area (1)

Ten Mile Creek Fish and Wildlife Area

Witkowsky State Wildlife Area (1)

Wolf Creek State Park (first 2 seasons only) (1)

(Source: Amended 1993 at 20 Ill. Reg. 177 effective DEC 29 1993)

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Procedures for Issuing Loans from the Water Pollution Control Revolving Fund

2) Code Citation: 35 Ill. Adm. Code 365

3) Section Numbers: Adopted Action:

365.130	Amendment
365.230	Amendment
365.240	Amendment
365.410	Amendment
365.420	Amendment
365.430	Amendment
365.440	Amendment
365.450	Amendment
365.460	Amendment
365.520	Amendment
365.530	Amendment
365.550	Amendment
365.620	Amendment
365.630	Amendment
365.660	Amendment
365.720	Amendment
365.730	Amendment
365.740	Amendment
365.750	Amendment
365.760	Amendment
365.770	Renumber
365.820	Amendment
365.920	Amendment
365.940	Amendment
365.1010	Amendment
365.1110	Amendment
365.1120	Amendment

4) Statutory Authority: Implementing and authorized by Sections 19.1 through 19.8 of the Environmental Protection Act, as amended by P.A. 89-27, effective January 1, 1996 (415 ILCS 5/19.1 through 5/19.8)

5) Effective Date of Amendments: January 1, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does this proposed amendment contain incorporations by reference? No

8) Date filed in Agency's Principal Office: December 26, 1995

9) Notice of Proposal Published in Illinois Register: September 15, 1995 (19

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Ill. Reg. 12860)

10) Has JCAR issued a Statement of Objections to these Adopted Amendments?  
No

11) Differences between proposal and final version: The Agency made three typographical changes and technical corrections at the request of JCAR.

1. In line 595, add "and" to the end of Section 365.430(b)(10).
2. In line 1625, add "and" to the end of Section 365.1010(a)(3).
3. In line 1641, add "and" to the end of Section 365.1010(b)(5).

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment and rule replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: This rulemaking is in response to the legislative creation of two programs known as the Water Pollution Control Loan Program and the Loan Support Program within the Water Pollution Control Revolving Fund. The Water Pollution Control Loan Program provides financial assistance in the form of below market rate loans to eligible units of local government to construct wastewater treatment works. The Loan Support Program uses a portion of the loan repayments to finance Agency costs of administering the Water Pollution Control Revolving Fund, and activities under Title III of the Environmental Protection Act, including administration of the state construction grant program. Furthermore, the Loan Support Program will finance the development of a low interest loan program for public water supply projects. Other amendments simplify the procedures.

16) Information and questions regarding these adopted amendments shall be directed to:

Ron Drainer, Manager  
Grants Administration  
Division of Water Pollution Control  
Bureau of Water  
Illinois Environmental Protection Agency  
2200 Churchill Road  
Springfield, IL 62794-9276  
217/782-2027

The full text of the Adopted Amendments begins on the next page:

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 35: ENVIRONMENTAL PROTECTION

## SUBTITLE C: WATER POLLUTION

## CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

## PART 365

PROCEDURES FOR ISSUING LOANS FROM THE WATER  
POLLUTION CONTROL REVOLVING FUND

## SUBPART A: INTRODUCTION

## Section

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365.120

365.130

365.140

Purpose

Administration

Definitions

Incorporations by Reference

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365.220

365.230

365.240

Involvement of USEPA in the Operation of the Fund

Uses of the Fund

Agency Responsibilities under Title VI of the CWA

Requirements for Loan Recipients under Title VI of the CWA

## SUBPART C: LIABILITIES AND REMEDIES FOR FAILURE TO COMPLY WITH

## LOAN PROCEDURES

## Section

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365.330

365.340

Noncompliance with Loan Procedures

Stop-Work Order

Termination

Waiver of Procedures

## SUBPART D: PROCEDURES FOR ISSUANCE OF LOANS

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365.460

Project Priority Determination  
Pre-Applications for Financial Assistance and Identification of  
Projects to be Funded

Financial Assistance Application and Approval

Fixed Loan Interest Rates

Restrictions on Refinancing

Limitation on Design Cost

## SUBPART E: PLANNING REQUIREMENTS FOR LOAN PROJECTS

## Section

365.510

Sewer System Evaluation and Rehabilitation

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365.520 Loan Applicant's Responsibilities During Facilities Planning  
 365.530 State Environmental Review  
 365.540 Limitations on Awards for Individual Systems  
 365.550 Value Engineering Requirements  
 365.560 Areawide Waste Treatment Management Planning

## SUBPART F: REQUIREMENTS APPLICABLE TO SUBAGREEMENTS

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365.610

365.620

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365.670

Loan Requirements for all Subagreements

Construction Contracts of Loan Recipient

Contracts for Personal and Professional Services-----Consulting  
 Engineering-Agreements

Compliance with Procurement Requirements for Construction Contracts

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Indemnity

Covenant Against Contingent Fees

SUBPART G: REQUIREMENTS APPLICABLE TO CONSTRUCTION INITIATION, CHANGES,  
COMPLETION AND OPERATION OF PROJECT

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365.770

Construction Initiation

Project Changes

Construction Engineering

Operation and Maintenance of the Project Project-Sign

Final Inspection Operation-and-Maintenance-of-the-Project

Project Performance Certification Final-Inspection

Project Performance Certification (Renumbered)

## SUBPART H: REQUIREMENTS APPLICABLE TO ACCESS, AUDITING, AND RECORDS

## Section

365.810

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365.830

Access

Audit and Records

Single Audit Act

SUBPART I: REQUIREMENTS FOR SEWER USE ORDINANCE, USER CHARGES, FINANCIAL  
CAPABILITY, DEDICATED SOURCE OF REVENUE AND FLOODPLAIN INSURANCE

## Section

365.910

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365.950

Sewer Use Ordinance

User Charges

Financial Capability

Dedicated Source of Revenue

Floodplain Insurance

## SUBPART J: REQUIREMENTS APPLICABLE TO DISBURSEMENT OF



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## LOANS TO RECIPIENTS

Section	Determination of Allowable Costs
365.1010	Use of Loan Funds and Payment of Unallowable Costs
365.1020	Disbursement of Loan Funds
365.1030	

## SUBPART K: PROCEDURES FOR LOAN REPAYMENT AND DELINQUENT REPAYMENT

Section	Loan Repayment to the Agency
365.1110	Delinquent Loan Repayments
365.1120	

## APPENDIX A Executive Orders

EXHIBIT A	Executive Order 11625
EXHIBIT B	Executive Order 12138
EXHIBIT C	Executive Order 12549

AUTHORITY: Implementing and authorized by Sections 19.1 through 19.8 of the Environmental Protection Act [415 ILCS 5/19.1 through 19.8] (see P.A. 89-27, effective January 1, 1996).

SOURCE: Adopted at 13 Ill. Reg. 7351, effective May 1, 1989; amended at 16 Ill. Reg. 15073, effective September 21, 1992; recodified at 19 Ill. Reg. 11450, effective August 11, 1995; amended at 20 Ill. Reg. 788, effective JAN 1 1996.

## SUBPART A: INTRODUCTION

## Section 365.130 Definitions

- a) Unless specified otherwise, all terms shall have the meanings set forth in the Environmental Protection Act (Act) [415 ILCS 5] and regulations adopted thereunder ~~under--that--Act~~ (35 Ill. Adm. Code: Subtitle C) and the Clean Water Act (CWA), as amended (33 U.S.C. 1251 et seq.).
- b) For the purposes of this Part, the following definitions apply:

Addenda -- Documents issued by the loan applicant after advertisement for bids, which modify or interpret the contract documents, drawings, and specifications, by additions, deletions, clarifications or corrections.

Agency -- Illinois Environmental Protection Agency.

Alternative Technology -- Proven wastewater treatment processes and techniques which provide for the reclaiming and reuse of water, productively recycle wastewater constituents or otherwise

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eliminate the discharge of pollutants, or recover energy. Specifically, alternative technology includes land application of effluent and sludge; aquifer recharge; aquaculture; direct reuse (non-potable); horticulture; revegetation of disturbed land; containment ponds; sludge composting and drying prior to land application; self-sustaining incineration; methane recovery; individual and on-site systems; and small diameter pressure and vacuum sewers and small diameter gravity sewers carrying partially or fully treated wastewater.

Best Practicable Waste Treatment Technology (BPWTT) -- The cost effective technology that is able to treat wastewater, combined sewer overflows and nonexcessive, infiltration and inflow in publicly owned or individual wastewater treatment works.

Binding Commitment -- A legal obligation between the Agency and a local government unit to provide financial assistance from the Fund to that local government unit, specifying the terms and schedules under which assistance is provided. The loan agreement will be considered a binding commitment.

Building Cost -- Refers to the cost of erection of construction contract line items. "Building" costs do not include preliminary planning, engineering, architectural, legal, fiscal, administrative or contingency costs.

Capitalization Grant -- The actual federal funds received by the Agency for deposit into the Fund as a result of the capitalization grant agreement with the USEPA.

Capitalization Grant Agreement -- The agreement entered into each federal fiscal year between the Agency and the USEPA for the purpose of providing a grant to capitalize the Fund and enable the Agency to provide assistance for construction of wastewater treatment works.

Change Order -- A written order by the loan recipient to the contractor authorizing an addition, deletion or revision in the work within the general scope of the contract documents, or authorizing an adjustment in the contract price or contract time.

Compliance Projects -- A project which consists of construction, expansion, or upgrading of a wastewater treatment works necessary to meet State and federal requirements as specified in 35 Ill. Adm. Code: Subtitle C, and the CWA respectively.

Construction -- Any one or more of the following which is undertaken for a public purpose: preliminary planning to

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determine the feasibility of the wastewater treatment works, engineering, architectural, legal, fiscal or economic investigations, or studies, surveys, designs, plans, working drawings, specifications, procedures or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement or extension of wastewater treatment works, or the inspection or supervision of any of the foregoing items.

Contract Documents -- The contract, including but not limited to advertisement for bids, information for bidders, bid, bid bond, agreement, payment bond, performance bond, notice of award, notice to proceed, change order, drawings, specifications, and addenda.

Cost-Effectiveness Analysis -- An analysis of the feasible conventional, innovative and alternative wastewater treatment works, processes and techniques capable of meeting the applicable effluent, water quality and public health requirements over the design life of the facility while recognizing environmental and other non-monetary considerations.

CWA -- The Clean Water Act, as amended (33 U.S.C. 1251 et seq.).

Dedicated Source of Revenue -- The type of security and the basis of legal authorization which are dedicated by legislative enactment or other appropriate authority along with the applicable revenue source pledged for repayment and deposited into an account restricted to the purpose of loan repayment to the fund, which is sufficient to repay the principal and interest on the loan.

Design -- All administrative, legal, and engineering tasks, subsequent to facilities plan approval but prior to advertisement for bid proposal, associated with receiving approval of a loan application. This shall include the following: surveys, designs, plans, working drawings, specifications, soil investigations and any other tests or process determinations required to establish design criteria, and development of user charge systems and sewer use ordinances.

Director -- Director of the Illinois Environmental Protection Agency.

Emergency--Project---A--project--resulting--from--an--unanticipated mechanically--structural--or--electrical--failure--that--directly--causes or--threatens--to--cause--a--wastewater--treatment--works--to--operate--in violation--of--State--or--federal--requirements--for--wastewater treatment--as--specified--in--35--Ill--Adm--Code--Subtitle--C7--and--the

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## EWA-

Excessive Infiltration/Inflow -- The amount of infiltration/inflow that is cost-effective to remove by sewer rehabilitation measures as opposed to transporting and treating those flows over a given period of time, usually 20 years.

Fixed Loan Rate -- One-half the Market Interest Rate rounded to the nearest one hundredth of one percent. In the case of compliance projects, the rate is 2.50 percent.

Fund -- The Water Pollution Control Revolving Fund as authorized by P.A. 85-1135, effective September 1, 1988.

Infiltration -- Water other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground through such means as defective pipes, pipe joints, connection, or manholes.

Inflow -- Water other than wastewater that enters a sewer system (including sewer service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash water, or drainage.

Initiation of Loan Repayment Period -- The date in a loan agreement or amendment that established the beginning point of the loan repayment period.

Initiation of Operation -- The data specified by the loan agreement on which use of the project began operation for the purposes that it was planned, designed, and constructed.

Innovative -- Those wastewater treatment processes and techniques that are developed methods which have not been fully proven under the circumstances of their contemplated use and which represent a significant advancement over the state of the art in terms of meeting the national goals of cost reduction, increased energy conservation or recovery, greater recycling and conservation of water resources, reclamation or reuse of effluents and resources, improved efficiency and/or reliability, the beneficial use of sludges or effluent constituents, better management of toxic materials or increased environmental benefits.

Intended Use Plan -- A plan which includes a description of the short and long term goals and objectives of the Fund, project

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categories, discharge requirements, terms of financial assistance and the communities to be served.

Interest Rate -- Not less than one-fourth of the Market Interest Rate rounded to the nearest one hundredth of one percent.

Loan Agreement -- The contractual agreement between the Agency and the local government unit which states the terms and conditions governing the loan issued from the Fund.

Loan Applicant -- The local government unit which has applied for a loan from the Fund for construction of a wastewater treatment works.

Loan Commitment Letter -- The letter that is sent by the Agency to the loan applicant which reserves loan funds and identifies the requirements that must be satisfied prior to the execution of the loan agreement.

Loan Procedures -- The Procedures For Issuing Loans From The Fund (this Part).

Loan Recipient -- The local government unit which has been provided a loan for construction of a wastewater treatment works from the Fund.

Loan Support Rate -- Not more than one-fourth of the Market Interest Rate rounded to the nearest one hundredth of one percent.

Local Government UNIT -- A county, municipality, township, municipal or county sewerage or utility authority, sanitary district, improvement authority or any other political subdivision whose primary purpose is to construct, operate and maintain wastewater treatment works.

Market Interest Rate -- The mean interest rate of the 20 General Obligation Bond Buyer Index, as published weekly by the Bond Buyer newspaper, from July 1 to June 30 of the preceding fiscal year rounded to the nearest one hundredth of a percent. In the case of a compliance project with a 2.50 percent fixed loan rate, the Market Interest Rate is 5.00 percent.

Operating Agreement -- The agreement between the Agency and the USEPA that establishes the policies, procedures and activities for the application and receipt of federal capitalization grant funds for capitalization of the Fund.

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Principal -- All disbursements including and interest and loan support accrued on the disbursements that have not been financed repaid at the time the repayment schedule period begins.

Project -- The activities or tasks the Agency identifies in the loan agreement for which the loan recipient may expend loan funds.

Project Priority List -- An ordered listing of projects developed in accordance with the priority system, as described in Section 365.401 (Project Priority Determination) which the Agency has determined are eligible to receive financial assistance from the Fund.

Responsible Bid -- Bid that demonstrates the apparent ability to successfully meet all the requirements specified in the contract documents. Information required to demonstrate responsibility may be corrected or submitted after bid opening.

Responsive Bid -- Bid that complies with all meaningful or material aspects of the contract documents. The bid must constitute a definite and unqualified offer to meet the material requirements of the contract documents including any terms that affect price, quality, quantity or time of delivery, or are clearly identified in the contract documents to be complied with at the risk of bid rejection for non-responsiveness. Bid defects resulting in a non-responsive bid may not be corrected after the bid opening.

Subagreement -- A written agreement between the loan recipient and another party and any tier of agreement thereunder to furnish services, supplies, or equipment necessary to complete the project for which a loan was provided, including contracts for personal and professional services and purchase orders.

Title II -- Title II of the federal Clean Water Act (33 U.S.C. 1251 et seq.).

Title III -- Title III of the federal Clean Water Act (33 U.S.C. 1251 et seq.).

Title IV -- Title IV of the federal Clean Water Act (33 U.S.C. 1251 et seq.).

Title VI -- Title VI of the federal Clean Water Act (33 U.S.C. 1251 et seq.).

Treatment Works -- Any devices and systems owned by a local



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government unit and used in the storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature, including intercepting sewers, outfall sewers, sewage collection systems, pumping power and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply, such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process.

Useful Life -- The estimated period during which a wastewater treatment works is intended to be operable will be operated.

USEPA -- The United States Environmental Protection Agency.

User Charge -- A charge levied on the users of a treatment works to produce adequate revenues for the operation, maintenance and replacement of the treatment works.

(Source: Amended at 20 Ill. Reg. 706, effective JAN 1 1988)

## SUBPART B: FEDERAL REQUIREMENTS FOR THE FUND

## Section 365.230 Agency Responsibilities under Title VI of the CWA

- a) The Fund must be established in accordance with the requirements of Title VI prior to the receipt of the capitalization grant for deposit into the Fund.
- b) The Agency will prepare an Intended Use Plan and negotiate an Operating Agreement with the USEPA which will be the basis for the Capitalization Grant Agreement. These documents establish the procedures, activities, and assurances for operation of the Fund including but not limited to the following:
  - 1) Grant payments will be accepted in accordance with a payment schedule established jointly by the Agency and the USEPA under 601(b) of the CWA and will be deposited into the Fund as drawdowns to the federal letter of credit are approved;
  - 2) A 20 percent State match will be deposited into the Fund according to an agreed upon schedule;
  - 3) A listing and description of projects on the Project Priority List to be provided financial assistance, their discharge requirements under Title III and IV of the CWA, and the terms of financial assistance;
  - 4) Binding commitments for 120 percent of each quarterly federal grant payment must be made by the Agency within one year after the receipt of each payment;
  - 5) Funds as a result of the Capitalization Grants must first be used

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to assure maintenance of progress toward compliance with the enforceable deadlines, goals and requirements of the CWA;

- 6) Wastewater treatment works constructed with funds made directly available from the Capitalization Grant must meet the appropriate Title II requirements;
- 7) Loan award and disbursement procedures to document loan applicant's compliance with Title VI requirements;
- 8) Loan repayment period cannot exceed 20 years beyond the earlier of the initiation of operation date or the initiation of the loan repayment period;
- 9) All repayments of loan principal and interest must be deposited into the Fund;
- 10) Annual reporting to the USEPA on the Agency's progress toward meeting its goals and objectives; and
- 11) Annual audit of the Fund in accordance with the auditing procedures of the General Accounting Office (U.S.C. Chapter 75, Title 31).

(Source: Amended at 20 Ill. Reg. 706, effective JAN 1 1988)

## Section 365.240 Requirements for Loan Recipients under Title VI of the CWA

- a) Only local government units will be eligible for loans to construct wastewater treatment works projects.
- b) Loan projects must be on the Project Priority List.
- c) Loan projects must meet the following requirements in the same manner as wastewater treatment works constructed with grant funds received under Title II of the CWA:
  - 1) Section 201(b) of the CWA (Best Practicable Waste Treatment Technology)
  - 2) Section 201(g)(1) of the CWA (Eligible Project Categories)
  - 3) Section 201(g)(2) of the CWA (Alternative Technology)
  - 4) Section 201(g)(3) of the CWA (Excessive Infiltration/Inflow)
  - 5) Section 201(g)(5) of the CWA (Innovative/Alternative Technology)
  - 6) Section 201(g)(6) of the CWA (Recreational Use and Open Space Opportunities)
  - 7) Section 201(n)(1) of the CWA (Combined Sewer Overflow Projects)
  - 8) Section 201(o) of the CWA (Capital Financing Plans)
  - 9) Section 204(a)(1) and (2) of the CWA (Water Quality Management Plans)
  - 10) Section 204(b)(1) of the CWA (User Charge Systems and Legal Institutional, Managerial and Financial Capabilities)
  - 11) Section 204(d)(2) of the CWA (One Year Project Performance)
  - 12) Section 211 of the CWA (Collection System Restrictions)
  - 13) Section 218 of the CWA (Cost-Effective and Value Engineering Requirements)
  - 14) Section 511(c)(1) of the CWA (National Environmental Policy Act)

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- 15) Section 513 of the CWA (Davis-Bacon Labor Wage Provisions)
- d) Loan projects must be consistent with any plans developed under 205(j), 208, 303(e), and 319 of the CWA.
- e) A dedicated source of revenue, sufficient to pay principal and interest when due, must be enacted and pledged by the loan recipient for repayment of the loan.
- f) Loan projects must meet federal minority and women owned business requirements in accordance with Executive Orders 11625 and 12138 (reference Appendix A).
- g) Loan projects must meet the applicable requirements of any other federal laws and authorities.
- h) Loans will be made at or below market interest rates.
- i) Loan accounts related to the project construction and the dedicated source of revenue will be maintained by the loan recipient consistent with generally accepted accounting standards in accordance with the American Institute of Certified Public Accountants Professional Standards (666 Fifth Avenue, New York, New York 10019; June 1, 1987).
- j) Loans will be fully amortized not later than 20 years after the earlier of the initiation of operation date or the initiation of the loan repayment period.

(Source: Amended at 20 Ill. Reg. 708, effective JAN 1 1996)

## SUBPART D: PROCEDURES FOR ISSUANCE OF LOANS

## Section 365.410 Project Priority Determination

- a) Financial assistance may be provided from the Fund, only to local government units that have projects which are on the Project Priority List developed by the Agency.
- b) The Project Priority List sets forth the priority for receipt of loans for each loan applicant. Priorities are established in accordance with Agency rules 35 Ill. Adm. Code 3667 (Procedures and Requirements for Determining Loan Priorities for Municipal Wastewater Treatment Works) after the completion and submittal of a loan pre-application by the loan applicant pursuant to Section 365.420 (Pre-Applications for Financial Assistance and Identification of Projects to be Funded).
- c) Projects on the Project Priority List will be included on the list of projects in the Intended Use Plan in priority order, provided the project has an approved facilities plan and is scheduled to initiate construction by March 31 of the subsequent federal fiscal year.

(Source: Amended at 20 Ill. Reg. 708, effective JAN 1 1996)

## Section 365.420 Pre-Applications for Financial Assistance and Identification of Projects to be Funded

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- a) The pre-application will be submitted by the loan applicant to the Agency in order to determine the relative priority of the project on the Project Priority List and shall include:
- 1) A description of the proposed project;
  - 2) An estimated project cost;
  - 3) ~~Documentation of the need for the proposed project;~~
  - 314) A proposed schedule for construction;
  - 415) Project classification (35 Ill. Adm. Code 366);
  - 516) Discharge location point; and
  - 617) Population tributary to the project.
- b) Loan applicants for financial assistance, during any federal fiscal year commencing October 1, must file a new pre-application annually on or before the preceding March 31 to qualify for possible inclusion in the Intended Use Plan, ~~except as provided in subsection (c) below.~~
- c) ~~Pre-applications for emergency projects may be filed at any time.~~
- c14) A project with approved facility planning may be added to the Project Priority List at any time by the submission of a pre-application.
- d15) By July 1 of each year, the Agency shall publish a list of the projects which are proposed for funding during the next federal fiscal year commencing October 1. These projects will be included in the Intended Use Plan.
- e16) After January 1 of each year, the Agency may substitute other projects listed on the Project Priority List for funding in lieu of the projects in the Intended Use Plan identified in (d) above, if the latter does not meet the schedule contained in the pre-application.
- g) ~~The Agency may substitute emergency projects in lieu of projects in the Intended Use Plan, if their priority ranking would place them higher than those listed in the current Intended Use Plan.~~

(Source: Amended at 20 Ill. Reg. 708, effective JAN 1 1996)

## Section 365.430 Financial Assistance Application and Approval

- a) The following is required prior to the issuance of a loan commitment letter for projects ~~listed on the annual Intended Use Plan:~~
- 1) Completed loan application for financial assistance which includes ~~a proposed disbursement schedule;~~
  - 2) An approved facilities plan ~~(including an inventory of environmental impacts)~~ in accordance with Section 365.520 (Facilities Planning);
  - 3) Agreement from the loan applicant to pay from other resources any project related costs not included in the loan;
  - 4) Demonstration that the loan applicant has the legal, institutional, managerial and financial capability to insure adequate building, operation, maintenance and replacement of the project in accordance with Section 365.930;
  - 5) Executed inter-governmental agreement necessary for project

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- implementation, where necessary;
- 6) Certification that no unlawful or corrupt practice has taken place in the planning or design of the project;
- 7) Certification of compliance with that the services of anyone that has been debarred or suspended under Federal Executive Order 12549 (reference Appendix A) regarding debarment, suspension and other responsibility matters; has not or will not be used for planning, design and construction work; and
- 8) Resolution or ordinance authorizing a representative of the loan applicant to sign loan application documents;
- b) The following is required of the loan applicant prior to the issuance of the loan agreement:
- 9) Evidence of compliance with the Relocation and Real Property Acquisition Policies Act of 1970 (P.L. 91-646);
- 10) Statement that the necessary project site, rights-of-way, easements and permits for construction of the project have been obtained;
- 11) Statement of intent to comply with the National Flood Insurance Act of 1968 (42 U.S.C. 4001-4127) in accordance with Section 365.950 (Floodplain Insurance) of this Part;
- 12) An approved sewer use ordinance and user charge system in accordance with the provisions of Sections 365.910 (Sewer Use Ordinance) and 365.920 (User Charges);
- 13) Enactment of an authorized loan security and approved dedicated source of revenue in accordance with the provisions of Section 365.940 (Dedicated Source of Revenue);
- 14) Statement regarding contracts awarded under Sections 10-1 and 10-2 of the Illinois Purchasing Act [30 ILCS 505/10-1 and 10-2] (Rev. Stat. 1991, ch. 127, pars. 10-1 and 10-2) and the loan applicant's federal taxpayer identification number (74 Ill. Adm. Code 290.1203);
- 15) Construction drawings and specifications, suitable for bidding purposes;
- 16) A construction permit application and permit or "authorization to construct" from the Agency, pursuant to the provisions of 35 Ill. Adm. Code 309.154 and 309.202, whichever may be applicable;
- 17) Identification of project performance standards;
- 18) Project completion schedule;
- 19) A proposed loan disbursement schedule;
- 20) An executed engineering contract for design and construction related work in accordance with Section 365.630 which includes a method of compensation, an access to records clause, a covenant against contingent fees clause, a scope of work, a time of completion, and an MBE/WBE clause, and certification that the services of anyone that has been debarred or suspended will not be used;
- 20) An approved value engineering study if the estimated project costs exceed \$10 million, in accordance with Section 365.550;

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- 21) Compliance report (Title VI, Civil Rights Act of 1964 as amended (P.L. 88-352) and Section 13 of the CWA);
- 22) Evidence of compliance with any other applicable State and federal statutory and regulatory requirements;
- 23) A copy of the bid advertisement if the loan applicant is not self-certified in accordance with Section 365.604(e) of this Part;
- 24) Any addenda issued by the loan applicant, if applicable;
- 25) Summary and recommendations as a result of the review of the bid if the loan applicant is not self-certified in accordance with Section 365.604(e) of this Part; if the loan applicant is self-certified, only a copy of the low bidder's bid proposal and the bid tabulation is required;
- 26) Enactment of an ordinance authorizing the bonds, notes or other evidence of indebtedness to be delivered to the Agency pursuant to the loan agreement; and
- 27) Delivery of a legal opinion from the loan recipient's legal counsel with respect to the validity and enforceability of the loan recipient's obligations and the absence of conflicts with other agreements, bonds or ordinances.
- b) In addition to the items identified in subsection (a) above, the following items are required prior to the issuance of a loan:
- 1) A copy of the bid advertisement(s) if the loan applicant is not self-certified in accordance with Section 365.640(e) of this Part;
- 2) Any addenda issued by the loan applicant, if applicable;
- 3) Certification of publication;
- 4) Bidder's 5% bid bond or cashier's check;
- 5) Low bidder's certificate of nonsegregated facilities;
- 6) Summary of evidence that the contractor has met MBE/WBE requirements;
- 7) Submittal of bid tabulations;
- 8) Letter from the engineering firm to the applicant containing the consultant's analysis of bids and engineer's recommendations for the award of the bids;
- 9) Successful bid proposals;
- 10) Notice of applicant's intent to award; and
- 11) Certification from the prime contractor or engineer that the services of anyone who has been debarred or suspended under Federal Executive Order 12549 has not or will not be used for construction work (form attached). This certification is also required for all subcontracts over \$25,000.

(Source: Amended at 20 Ill. Reg. 730, effective JAN 1 1996)

Section 365.440 Fixed Loan Interest Rates



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The fixed loan rate is comprised of an interest rate and a loan support rate. The fixed loan rate interest rates charged for a wastewater loan shall be a simple annual interest rate as follows:

- a) One-half of the market interest rate but not less than 2.50 percent, except as provided in subsection (b) below.
- b) 2.50 percent for compliance projects provided that:

- 1) The loan applicant submits to the Agency by October 28, 1989, documentation to justify that the proposed project qualifies under the definition of Compliance Project as contained in Section 365.130(b) of this Part; and 2) or was included in an enforceable order (Judicial Order or NPDES Permit) issued by the Agency pursuant to Sections 365.402, 365.403(a) and 365.403(b) in a manner consistent with the Agency's management of the annual Intended Use Plan and Project Priority List; and

3) The Agency concurs with the justification submitted and agrees that the project qualifies under the definition of Compliance Projects. The Agency will notify the loan applicant in writing of its decision; and

4) The loan applicant provides necessary information and loan applications pursuant to Sections 365.402, 365.403(a) and 365.403(b) in a manner consistent with the Agency's management of the annual Intended Use Plan and Project Priority List; and

5) The compliance project is included in an enforceable order (Judicial Order, Illinois Pollution Control Board Order or permit compliance schedule pursuant to 35 Ill. Adm. Code: Subtitle C) before the issuance of the loan agreement and the loan is offered prior to June 30, 1999; or

6) The compliance project was included in an enforceable order (Judicial Order, Approved Municipal Compliance Plan, Illinois Pollution Control Board Order or NPDES Permit) pursuant to 35 Ill. Adm. Code: Subtitle C issued on or before October 28, 1989; and

7) The loan applicant provides necessary information and loan applications pursuant to Sections 365.420, 365.430(a) and 365.430(b) in a manner consistent with the Agency's management of the annual Intended Use Plan and Project Priority List; and

8) The loan is offered prior to June 30, 1999.

(Source: Amended at 20 Ill. Reg. 703, effective JAN 1 1996)

## Section 365.450 Restrictions on Refinancing

- a) No project cost incurred prior to the execution of the loan agreement shall be eligible for loan assistance except:

- 1) Design costs as set forth in Section 365.460 (Limitation on Design Cost) and bid costs related to eligible construction

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- a) contracts; and
- 2) Compliance project costs where the local obligations were incurred and where construction was initiated after March 7, 1985.

- b) Notwithstanding subsection 365.450(a)(2) of this Section, no costs incurred under a construction contract awarded more than 90 days after the effective date of this Part shall be allowable for loan refinancing unless the Agency has granted written approval prior to the contract award.

(Source: Amended at 20 Ill. Reg. 703, effective JAN 1 1996)

## Section 365.460 Limitation on Design Cost

Allowable costs for design of the loan project will be limited to the actual cost incurred for design up to a maximum percentage of the allowable as bid construction cost.

- a) For less than \$500,000 the design will be funded up to 15 percent of the as bid construction cost.
- b) From \$500,001 to \$2,000,000, the design will be funded up to 12 percent of the as bid construction cost.
- c) From \$2,000,001 to \$5,000,000, the design will be funded up to 10 percent of the as bid construction cost.
- d) From \$5,000,001 to \$10,000,000, the design will be funded up to 8 percent of the as bid construction cost.
- e) For greater than \$10,000,000 the design will be funded up to 7 percent of the as bid construction cost.

(Source: Amended at 20 Ill. Reg. 703, effective JAN 1 1996)

## SUBPART E: PLANNING REQUIREMENTS FOR LOAN PROJECTS

## Section 365.520 Loan Applicant's Responsibilities During Facilities Planning

- a) The loan applicant shall:

- 1) undertake and complete facilities planning, which shall consist of plans and studies which are directly related to the construction of wastewater treatment works, to maintain compliance with State and Federal requirements as specified in 35 Ill. Adm. Code: Subtitle C and the CWA.

- 2) demonstrate to the Agency through such plans and studies the need for the facilities for which loan assistance is being requested and, by a systematic evaluation of feasible alternatives, it shall also demonstrate that the proposed facilities represent the cost-effective means of meeting applicable effluent limitations and water quality standards and goals, recognizing environmental

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and social conditions as set forth below.

b) If the information required to be furnished as part of a facilities plan has been developed separately, it shall be furnished and incorporated by reference in the facilities plan. Planning previously or collaterally accomplished under local, State or Federal programs will be utilized (not duplicated).

c) The facilities plan shall be submitted ~~submitted~~ for review and approval ~~by shall include ordinances or a resolution from the loan applicant, endorsing the facilities plan.~~ Where applicable, the applicant shall also submit draft inter-governmental agreements and demonstrations of legal authority necessary for plan implementation.

d) The facilities plan may include more than one construction project and provide the basis for several subsequent construction projects. A facilities plan which has served as the basis for providing a loan for a construction project shall be reviewed prior to providing any loan for a subsequent project involving construction to determine if changes have occurred which require amendments to the facilities plan ~~in accordance with Section 365-560. If, in the judgment of the Agency, substantial changes have occurred which warrant revision or amendment as specified in Section 365.530, the plan shall be revised or amended and resubmitted submitted for review and approval in accordance with the provisions of in the same manner specified in Section 365.530 (a) and (b). Substantial changes would include, but not be limited to:~~

1) ~~changes in actual or projected population; and~~

2) ~~relocation of an industry.~~

e) Facilities planning shall, as a minimum, be in accordance with the following requirements. Such facilities plan shall include:

1) A description of the wastewater treatment works for which construction drawings and specifications are to be prepared. This description, as a minimum, shall include preliminary engineering data, cost estimates for design and construction of the wastewater treatment works and a schedule for completion of design and construction. The preliminary engineering data may include, to the extent appropriate, such information as a schematic flow diagram, unit processes, design data regarding detention times, flow rates, sizing of units, etc.

2) A complete description of the selected complete waste treatment system(s) of which the proposed wastewater treatment works is a part.

3) Infiltration/Inflow documentation in accordance with Section 365.510 (Sewer System Evaluation and Rehabilitation). The loan applicant must document in facilities planning that the sewer system discharging into the wastewater treatment works is not subject to excessive infiltration/inflow or provide a sewer system evaluation survey along with the cost-effective scope of proposed rehabilitation work, for any project involving construction of additional wastewater treatment works capacity.

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4) A cost-effectiveness analysis of appropriate alternatives for the wastewater treatment works to assure that the project proposed constitutes BPWT. The selection of the wastewater treatment works on which construction drawings and specifications are to be based shall reflect the cost-effectiveness analysis. This analysis shall include when appropriate:

A) The relationship of the nature, size and capacity of the wastewater treatment works to the needs to be served, including reserve capacity;

B) An evaluation of alternatives including those technologies and techniques for beneficial recycling and reuse of wastewaters where appropriate;

C) An evaluation of the capability of each alternative to meet applicable effluent limitations. The wastewater treatment works design must be based upon meeting effluent limitations and maintaining compliance with State or Federal requirements as specified in 35 Ill. Adm. Code: Subtitle C7 and the CWA;

D) An evaluation of the alternative means by which ultimate disposal can be effected for treated wastewater and for sludge materials resulting from the treatment process;

E) An evaluation of water reclamation, water recycling, recreational opportunities and open space opportunities; and

F) An inventory of environmental impacts of the alternatives within the planning area in accordance with Section 365.530(c) and discussion as to what measures are being or will be taken during planning, design and construction to avoid or mitigate potential negative environmental impacts.

5) An identification of effluent discharge limitations or a copy of the permit for the proposed wastewater treatment works as required by Title IV of the CWA.

6) Required comments or approvals of relevant State, interstate, regional, and local agencies.

7) The loan applicant shall certify ~~demonstrate~~ that the authorities which will be implementing the plan have the necessary legal, financial, institutional, and managerial capability to insure the construction, operation, and maintenance of the proposed wastewater treatment works.

8) The scope of each wastewater treatment works project defined within the facilities plan as being required for implementation of the plan, and for which State assistance will be requested, shall define:

A) Any necessary new wastewater treatment works construction; and

B) Any rehabilitation work determined by the sewer system evaluation to be necessary for the elimination of excessive infiltration/inflow. However, rehabilitation which should be a part of the loan applicant's normal operation and



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maintenance responsibilities shall not be included within the scope of a wastewater treatment works construction project.

(Source: Amended at 20 Ill. Reg. 708, effective  
JAN 1 1996)

## Section 365.530 State Environmental Review

- a) Prior to making a final determination on the acceptability of a facilities plan, the Agency shall determine if the project is subject to an environmental review. An environmental review shall be required in all cases, except that certain entire classes of projects may be categorically excluded from environmental review when, by virtue of their limited scope, they have no potential for negative environmental impacts. With conduct a review of the impacts of the proposed project and shall prepare for public comment a written Preliminary Environmental Impacts Determination. Interested members of the public will be given adequate opportunity to comment both on the facilities plan and the Agency's environmental review. After receiving and assessing public comment, the Agency shall take a final action to approve or disapprove the planning. This determination shall be issued in writing to the loan applicant and interested members of the public.
- b) The Agency shall not undertake its environmental review until it has determined that the facilities plan conforms to the requirements listed in Sections 365.510 (Sewer System Evaluation and Rehabilitation) and 365.520 (Loan Applicant's Responsibilities During Facilities Planning), and that based on the information available all reasonable measures have been taken in the planning to avoid and mitigate negative environmental impacts.
- c) The scope of the Agency's environmental review shall include, but not be limited to, an assessment of the impacts of both the loan funded project and the overall planning on rare and endangered species, historic/cultural resources, prime agricultural land, air and water quality, recreational areas, wetlands, floodplains and other sensitive environmental areas. The review shall also assess the direct and indirect impacts of construction on the community.
- d) For all projects requiring an environmental review, the Agency will assess the environmental impacts of the proposed project and prepare a written Preliminary Environmental Impacts Determination. Interested members of the public will be given an opportunity to comment both on the facilities plan and the Agency's assessment of environmental impacts. The Agency may identify certain classes of construction projects which by their limited scope preclude the potential for negative environmental impacts. The Agency may categorically exclude these projects from environmental review by providing written public notice and soliciting public comment on each project.

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- e) The Preliminary Environmental Impacts Determination shall be mailed to the loan applicant and other interested parties, inviting public comment. Within 90 days of receipt of the Agency's preliminary determination, the loan applicant will hold a public hearing on the plan and the Agency's Preliminary Environmental Impacts Determination for the purpose of obtaining public comment.
- f) The time and place of the public hearing shall be conspicuously and adequately announced. In addition, the Agency's Preliminary Environmental Impacts Determination document shall be displayed at a convenient local site sufficiently prior to the hearing to obtain a level of public participation appropriate to the scope and impacts of the project. In no case will the public notice period be less than 21 days.
- g) The loan applicant shall provide interested local, State and federal agencies, State and regional clearinghouses, citizen groups and local public officials with written notice of the public hearing.
- h) The loan applicant will provide to the Agency an accurate summary of all public comments received together with any proposed amendments to the plan made in response to these comments.
- i) Upon receipt of this public hearing summary and the expiration of a 15 day comment period from the day of the hearing, the Agency shall provide in writing any one of the following:
  - 1) an unconditional approval of the plan (original or as amended); or
  - 2) a conditional approval of the plan with special conditions for mitigation of negative environmental impacts; or
  - 3) disapproval of the plan based on evidence of significant negative environmental impacts for which appropriate mitigative measures have not been identified; or
  - 4) determination to prepare an Environmental Impact Statement (EIS) which the Agency may at its sole discretion prepare or have prepared by a qualified outside contractor. The Agency may reconsider approval or conditional approval of the project based on the recommendations of the EIS.
- j) For projects categorically excluded from the environmental review process, the Agency shall provide to the applicant a Notice of Intent to Issue a Categorical Exclusion. The applicant shall publish in the newspaper of local record a public notice of this Intent, provide public access to the planning documents and Agency Notice of Intent, and allow 15 days for public comment. If no valid objection is raised to the Categorical Exclusion, the Agency shall issue an Unconditional Approval of the plan at the close of the public comment period. Should valid concerns be raised over potential environmental impacts, the Agency shall proceed to the normal environmental review process outlined above or issue a Conditional Approval where mitigative measures have been identified which would clearly resolve environmental concerns. The Agency may reconsider its approval of the Facilities Plan at any time based on circumstances, including but not



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limited-to--changes--in--population--State--or--Federal--law--or--technology--but--must--re-review--the--Facility--Plan--if--the--loan--offer--has--not--been--made--within--5--years--after--the--approval--of--the--Facilities--Plan--by--the--Agency.

- k) Agency approval of a facilities plan shall be valid for purposes of loan funding for a period of five years, after which time it must be updated and subject again to Agency review and approval. The Agency shall prepare a revised environmental review and require a second round of public comment in accordance with these rules in those cases where changes in circumstance, project scope, or cost impacts warrant. Agency facilities planning determinations made in accordance with subsection (i) above shall be subject to the provisions of the Illinois Administrative Procedure Act (445 Rev. Stat. 1997 Ch. 127 pars. 1001 et seq.).

- l) At any time less than 5 years following the date of facilities plan approval, the Agency may rescind its approval and require amendment of the planning based on changes to the scope of proposed construction or significant alterations to planning area conditions or underlying assumptions that might alter conclusions regarding environmental impacts or the cost-effectiveness of the proposed project. Prior to granting approval of amended planning, the Agency may require a second round of public comment where substantial changes in environmental or economic impacts result from the amended plan.

- m) Additions to the project scope or changes to the location of proposed construction activity will normally require an amendment to an approved facilities plan. Where the Agency determines that the proposed changes will not alter the previous environmental impacts findings, the Agency will approve planning amendments by letter. In other cases, a second round of environmental review or public comment may be required as appropriate.

- n) Agency facilities planning determinations made in accordance with subsection (i) above shall be subject to the provisions of the Illinois Administrative Procedure Act [5 ILCS 100].

(Source: Amended at 20 Ill. Reg. 703, effective JAN 1 1996)

## Section 365.550 Value Engineering Requirements

Value engineering consists of an intensive, independent review of plans and specifications utilizing a specialized cost control technique to identify unnecessary high cost items in the proposed project.

- a) Value engineering is required for all projects which are estimated to cost over \$10 million for the total project building construction cost.
- b) The value engineering effort must be approved prior to the issuance of the loan agreement.
- c) After each value engineering review is completed, the loan recipient

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- d) must obtain a summary report and recommendations. The loan recipient must review the recommendations and either accept, modify or reject them and send a summary of proposed action along with the value engineering report to the Agency for review and approval.

(Source: Amended at 20 Ill. Reg. 708, effective JAN 1 1996)

## SUBPART F: REQUIREMENTS APPLICABLE TO SUBAGREEMENTS

## Section 365.620 Construction Contracts of Loan Recipient

This procedure shall apply to construction contracts (subagreements) awarded by loan recipients for the construction phase only. It shall not apply to personal and professional service contracts.

- a) Contract documents must include bid, performance and payment bonds.
- b) Each contract shall be awarded after formal advertising, unless negotiation is permitted in accordance with Section 365.610(i) (Negotiation of Subagreements) above. Formal advertising shall be in accordance with the following:

- 1) Adequate bidding documents

Bidding documents (invitations for bid) shall be made available by the loan recipient and shall be furnished upon request in a timely manner. A complete set of bidding documents shall be maintained by the loan recipient and shall be available for inspection and copying by any party. Such bidding documents shall include:

- A) A complete statement of the work to be performed, including necessary drawings and specifications, and the required completion schedule. (Drawings and specifications may be made available for inspection instead of being furnished.);
- B) The terms and conditions of the contract to be awarded;
- C) A clear explanation of the method of bidding, the method of evaluation of bid prices, and the basis and method for award of the contract;
- D) The statement that any contract awarded in response to the bid is expected to be funded in part by a loan from the Fund. Neither the State of Illinois nor any of its departments, agencies or employees is or will be a party to this bidding or any resulting contract;
- E) Responsibility requirements or criteria which will be employed in evaluating bidders, provided that an experience requirement or performance bond may not be utilized unless adequately justified under the particular circumstances by the recipient;
- F) A copy of subsections (b)(1)(G) and (H) below shall be in the proposal form to be used by bidders and, will constitute a representation and certification to be considered as a

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part of their bid;

G) By submission of the bid, each bidder certifies, and in the case of a joint bid each party thereto certifies as to his own organization, that in connection with the bid:

- i) The prices in the bid have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
- ii) Unless otherwise required by law, the prices which have been quoted in the bid have not knowingly been disclosed by the bidder, prior to opening, directly or indirectly to any other bidder or to any competitor; and
- iii) No attempt has been made or will be made by the bidder to induce any other person or firm to submit or not to submit a bid for the purpose of restricting competition; and

H) Each person signing the bid shall certify that:

- i) He is the person in the bidder's organization responsible for the decision as to the prices being bid and that he has not participated, and will not participate, in any action contrary to subsection (b)(1)(G) above; or
- ii) He is not the person in the bidder's organization responsible for the decision as to the prices being bid, but that he has been authorized to act as agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to subsection (b)(1)(G) above, and as their agent shall so certify. He shall also certify that he has not participated, and will not participate, in any action contrary to subsection (b)(1)(G) above.

2) Addenda to bidding documents

If the loan recipient desires to amend any part of the bidding documents (including drawings and specifications) during the period when bids are being prepared, the addenda shall be communicated in writing to all firms who have obtained bidding documents in time to be considered prior to the bid opening time. When appropriate, the period for submission of bids shall be extended. Any addenda issued to the bidding documents should be submitted to the Agency for approval prior to the bid opening.

3) Award to the low, responsive, responsible bidder

A) After bids are opened, they shall be evaluated by the loan recipient in accordance with the methods and criteria set forth in the bidding documents.

B) The loan recipient may reserve the right to reject all bids

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if it has documented sound business reasons. Unless all bids are rejected, award shall be made to the low, responsive, responsible bidder after the bid evaluation has been submitted to the Agency and written notice of Agency approval has been received by the loan recipient, except in the case of a loan recipient that is self-certified in accordance with Section 365.640(e) of this Part. Agency approval of the bid evaluation is not required prior to the award of the construction contract when loan recipients are self-certified.

- C) If award is intended to be made to a firm which did not submit the lowest bid, a written statement shall be prepared prior to any award and retained by the loan recipient explaining why each lower bidder was deemed not responsive or not responsible.

c) Negotiations of Contract Amendments (Change Orders)

1) Loan Recipient responsibility

The loan recipient is responsible for negotiation of construction contract change orders. This function may be performed by the loan recipient directly or, if authorized, by its consulting engineer. During negotiations the loan recipient shall:

- A) Make sure that the contractor has a clear understanding of the scope and extent of work and other essential requirements;
  - B) Assure that the contractor demonstrates that he will make available or will obtain the necessary personnel, equipment and materials to accomplish the work within the required time; and
  - C) A summary of all negotiations and the engineer's independent cost estimate shall be maintained with the records.
- 2) Changes in contract price or time
- The contract price or time may be changed only by a change order. When negotiations are required, they shall be conducted in accordance with subsection (c) of this Section.
- 3) For each change order the contractor shall submit to the loan recipient for review sufficient cost and pricing data to enable the loan recipient to ascertain the necessity and reasonableness of costs and amounts proposed, and the allowability and eligibility of costs proposed.
- 4) Agency review
- For any change order, the loan recipient shall submit to the Agency for its review and approval ~~no later than 60 days after execution of the change order~~ the following required documentation:

- A) A description of the changed work; ~~The cost and pricing data submitted by the contractor;~~
- B) The contractor's proposal itemizing the cost and time to complete the changed work; ~~A certification of review and~~

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acceptance-of-the-contractor's-cost-or-price.

C) The recipient or engineer's estimate of the cost and time to complete the changes:

D) Two copies of the executed change order with justification including, but not limited to, the need for the proposed work and the technical solution; and

E) The summary of negotiations and resolution between the engineer's independent cost estimate and the contractor's proposal.

d) Required--Construction--Contract-Provisions Each construction contract shall include the following provisions:

1) Audit; access to records:

A) The contractor shall maintain books, records, documents and other evidence directly pertinent to performance on loan work under this agreement consistent with generally accepted accounting standards in accordance with the American Institute of Certified Public Accountants Professional Standards (666 Fifth Avenue, New York, New York, 10019; June 1, 1987). The contractor shall also maintain the financial information and data used by the contractor in the preparation or support of any cost submissions required under subsection (c) above (Negotiation of Contract Amendments, Change Orders) and a copy of the cost summary submitted to the owner. The Auditor General, the owner, the Agency, or any of their duly authorized representatives shall have access to such books, records, documents, and other evidence for the purpose of inspection, audit, and copying. The contractor will provide facilities for such access and inspection.

B) If this contract is a formally advertised, competitively awarded, fixed price contract, the contractor agrees to include access to records as specified in subsection (d)(1)(A) above. This requirement is applicable to all negotiated change orders and contract amendments in excess of \$25,000 which affect the contract price. In the case of all other prime contracts, the contractor also agrees to include access to records as specified above in all his contracts and all tier subcontracts or change orders thereto directly related to project performance which are in excess of \$25,000.

C) Audits conducted pursuant to this provision shall be consistent with generally accepted auditing standards in accordance with the American Institute of Public Accountants Professional Standards (666 Fifth Avenue, New York, New York 10019; June 1, 1987).

D) The contractor agrees to the disclosure of all information and reports resulting from access to records pursuant to subsection (d)(1)(A) above. Where the audit concerns the

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contractor, the auditing agency will afford the contractor an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report will include the written comments, if any, of the audited parties.

E) Records under subsection (d)(1)(A) above shall be maintained and made available during performance of the work under this loan agreement and until three years from the date of final loan audit for the project. In addition, those records which relate to any dispute or litigation or the settlement of claims arising out of such performance, costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such dispute, appeal, litigation, claim, or exception.

F) The right of access conferred by this clause will generally be exercised (with respect to financial records) under:

- i) negotiated prime contractors;
- ii) negotiated change orders or contract amendments in excess of \$25,000 affecting the price of any formally advertised, competitively awarded, fixed price contract; and
- iii) subcontracts or purchase orders under any contract other than a formally advertised, competitively awarded, fixed price contract.

G) This right of access will generally not be exercised with respect to a prime contract, subcontract, or purchase order awarded after effective price competition. In any event, such right of access shall be exercised under any type of contract or subcontract:

- i) with respect to records pertaining directly to contract performance, excluding any financial records of the contractor; and
- ii) if there is any indication that fraud, gross abuse, or corrupt practices may be involved.

2) Covenants against contingent fees.

The contractor shall warrant that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. For breach or violation of this warranty, the owner shall have the right to annul the contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

3) Wage provisions.

The Contractor shall pay prevailing wages in accordance with the federal Davis-Bacon wage provisions (40 U.S.C. 276a through



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276a-5).

- 4) MBE/WBE Requirements  
Evidence that the contractor has taken affirmative steps, such as, but not limited to, a copy of the advertisement(s) and the record of negotiation in accordance with Federal Executive Order 11625 and 12138 (reference Appendix A), to assure that small, minority and women's businesses are used when possible as sources of supplies, equipment, construction and services.

- 5) Debarred or suspended provisions.  
A provision requiring the successful bidder(s) to submit a certification of compliance with that the services of anyone that has been debarred or suspended under Federal Executive Order 12549 (reference Appendix A) regarding debarment, suspension and other responsibility matters, will not be used for construction work.

- e) Subcontracts under Construction Contracts  
The award or execution of all subcontracts by a prime contractor and the procurement and negotiation procedures used by such prime contractor in awarding or executing such subcontracts shall comply with:

- 1) All provisions of federal, State and local law;
- 2) All provisions of this Part with respect to fraud and other unlawful or corrupt practices; and
- 3) All provisions of this Part with respect to access to facilities, records and audit of records; and
- 4) The provision requiring a certification of compliance with that the services of anyone that has been debarred or suspended under Federal Executive Order 12549 (reference Appendix A) regarding debarment, suspension, and other responsibility matters, will not be used for construction work.

- f) Contractor Bankruptcy

In the event of a contractor bankruptcy, the loan recipient shall notify the Agency and shall keep the Agency advised of any negotiations with the bonding company including any proposed settlement. The Agency may participate in those negotiations and will advise the loan recipient of the impact of any proposed settlement to the loan agreement. The loan recipient shall be responsible for assuring that every appropriate procedure and incidental legal requirement is observed in advertising for bids and re-awarding a construction contract.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective

JAN 1 1996

Section 365.630 Contracts for Personal and Professional Services  
---Consulting-Engineering Agreements

All subagreements of loan receipts for personal and professional architectural

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or-engineering services for design or construction that will be paid with loan funds, where the aggregate amount of services involved is expected to exceed \$25,000, must include the following subagreement provisions:

- a) Subagreements for personal and professional construction architectural or-engineering-design services must include:

- 1) Evidence that the consulting-engineer has taken affirmative steps have been taken, such as, but not limited to, a copy of the advertisement(s) and the record of negotiation in accordance with federal Executive Order 11625 and 12138 (reference Appendix A), to assure that small, minority and women's businesses are used when possible as sources of supplies, equipment, construction, and services;
- 2) An "audit, access to records" clause as follows:

- A) Subsections ~~the-engineer-agrees-to-include-subsections~~ (a)(2)(B) ~~that~~ through (E) ~~that~~ below shall be included in all his contracts and all subcontracts directly related to project services that performance--which are in excess of \$25,000.

- B) Books, ~~the-engineer-shall-maintain-books~~ records, documents and other evidence directly pertinent to performance of Agency loan work under this agreement shall be maintained consistent with generally accepted accounting standards in accordance with the American Institute of Certified Public Accountants Professional Standards (666 Fifth Avenue, New York, New York 10019; June 1, 1987). The Agency or any of its duly authorized representatives shall have access to such books, records, documents and other evidence for the purpose of inspection, audit and copying. Facilities ~~the engineer--will--provide--facilities~~ for such access and inspection shall be provided.

- C) Audits conducted pursuant to this provision shall be in accordance with generally accepted auditing standards.

- D) Disclosure ~~the-engineer-agrees-to-the-disclosure~~ of all information and reports resulting from access to records pursuant to subsection (a)(2)(B) above shall be provided to the Agency. ~~Where-the-audit-concerns-the-engineer--the~~ auditing agency will afford the engineer an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report will include the written comments, if any, of the audited parties.

- E) Records under subsection (a)(2)(B) ~~that~~ above shall be maintained and made available during performance of project services ~~on-Agency-loan-work~~ under this agreement and until three years after the final loan closing. ~~from-date-of-final~~ Agency--loan--audit--for--the--project. In addition, those records which relate to any "dispute" appeal under an Agency loan agreement, or litigation, or the settlement of claims

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arising out of such performance, or costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception;

- 3) A "covenant against contingent fees" clause as follows: The professional services contractor engineer warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bonafide employees. For breach or violation of this warranty, the loan recipient shall have the right to annul this agreement without liability or in its discretion to deduct from the contract price or consideration or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee; and

- 4) A certification of compliance with that the services of anyone that has been debarred or suspended under Federal Executive Order 12549 (reference Appendix A) regarding debarment, suspension and other responsibility matters; has not or will not be used for planning, design and construction.

- 5) The scope and extent of the project work;

- 6) The schedule for performance and completion of the contract work including, where appropriate, dates for completion of significant project tasks; and

- 7) A method of compensation.

- b) Subagreements for personal and professional design architectural or engineering--construction services must include the following subagreement provisions in addition to those contained in subsections (a)(2) - (a)(4) above. In addition, the subagreement must be accompanied by a statement regarding the extent of small, minority and women's business utilization during the design service phase.

- 1) The scope and extent of the project work;

- 2) The schedule for performance and completion of the contract work including, where appropriate, dates for completion of significant project tasks; and

- 3) A method of compensation;

- c) If any of the above elements cannot be defined adequately for later tasks at the time of contract execution, the subsequent tasks shall not be included in the contract at that time.

(Source: Amended at 20 Ill. Reg. 700, effective JAN 1 1996)

## Section 365.660 Indemnity

The loan recipient shall assume the entire risk, responsibility and liability for any and all loss or damage to property owned by the loan recipient, the

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Agency or third persons, and any injury to or death of any persons (including employees of the loan recipient) caused by, arising out of, or occurring in connection with the execution of any work, contract or subcontract arising out of this loan, and the loan recipient shall indemnify, save harmless and defend the State of Illinois and the Agency from all claims for any such loss, damage, injury or death whether caused by the negligence of the State of Illinois, the Agency, their agents or employees or otherwise consistent with the provisions of Section 1 of the Construction Contract Indemnification for Negligence Act "AN ACT in relation to indemnity in certain contracts" [740 ILCS 35/1] (1117 Rev. 1987, ch. 29, par. 617). The loan recipient shall require that any and all contractors or subcontractors engaged by the loan recipient shall agree in writing that they shall look solely to the loan recipient for performance of such contract or satisfaction of any and all claims arising thereunder.

(Source: Amended at 20 Ill. Reg. 700, effective JAN 1 1996)

## SUBPART G: REQUIREMENTS APPLICABLE TO CONSTRUCTION INITIATION, CHANGES, COMPLETION AND OPERATION OF PROJECT

## Section 365.720 Project Changes

- a) Prior approval by the Agency is required for project changes which may:

- 1) Increase the amount of loan funds needed to complete the project;
- 2) Alter the design or scope of the project;
- 3) Alter the type of treatment to be provided;
- 4) Extend any contractual or loan completion date for the project;
- 5) Alter the location, size, capacity or quality of any major item of equipment; or
- 6) Alter the scope of the project by changing the methodologies or personnel to be used as agreed to at the time the loan is provided.

- b) The Agency's approval of project changes is based on, but not limited to, changes that are cost-effective and within the overall scope of the treatment works for which the loan was issued, based on approved facilities planning.

- c) The loan recipient shall promptly notify the Agency, in writing, of all project changes. Failure on the part of the loan recipient to give timely notice of proposed project changes or action by the loan recipient that is not consistent with the Agency's determination on such changes may, in accordance with Section 365.310 (Noncompliance with Loan Procedures), result in:

- 1) Disallowance of loan participation for costs incurred which are attributable to the change; and
- 2) Termination of the loan.

(Source: Amended at 20 Ill. Reg. 700, effective JAN 1 1996)

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## Section 365.730 Construction Engineering

The loan recipient will assure that the construction substantially conforms with the approved plans and specifications by providing adequate construction engineering and monitoring of the project.

(Source: Amended at 20 Ill. Reg. 179, effective

JAN 1 1996)

## Section 365.740 Operation and Maintenance of the Project Project-Sign

The loan recipient shall erect and display at the project site a sign acknowledging the source of funds for the project. The sign in form and style to be determined by the Agency shall be erected at the start of construction at a location appropriate for public viewing and shall be maintained until the project is completed.

The Agency shall not approve the final inspection for the project unless the loan recipient has certified that the following training and operation and maintenance documents have been provided.

- Training pertaining to the proper operation and maintenance of the equipment and process units included in this project.
- An operation and maintenance reference library which includes but is not limited to the following:
  - Manufacturer's literature, shop drawings and warranties as well as maintenance schedule for the equipment and process units included in the project;
  - The plans of record with valve indices for the equipment and process units included in the project. For mechanical wastewater treatment plants, the valve index shall include a listing of valve positions for each possible alternate flow configuration including by-passing of individual treatment processes and units and recommended configurations for emergency conditions that could reasonably be expected to occur; and
  - A maintenance schedule for the equipment and process units included in the project.
- Training pertaining to the general operation of treatment plants or collection systems consisting of an operator self-study course such as Operation of Wastewater Treatment Plants, 1980, 2nd edition (three volumes) or Operation and Maintenance of Wastewater Collection Systems, 1983, 1st edition, California State University, Department of Civil Engineering, Sacramento, California.

(Source: Former Section 365.740 repealed, new Section 365.740 renumbered from Section 365.750 and amended at 20 Ill. Reg. 101, effective JAN 1 1996)

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## Section 365.750 Final Inspection Operation and Maintenance of the Project

The loan recipient must notify the Agency in writing within 30 days of the completion of project construction and submit the final change order, along with the contractor's final costs. The plans of record must be forwarded to the appropriate Agency regional office. The Agency shall schedule the final inspection within 60 days of the receipt of the notice provided all necessary change orders have been submitted and approved by the Agency.

(Source: Former Section 365.750 renumbered to Section 365.740 and new Section 365.750 renumbered from Section 365.760 at 20 Ill. Reg.

728, effective JAN 1 1996)

## Section 365.760 Project Performance Certification Final Inspection

- The loan recipient shall certify one year after the date of initiation of operation whether or not the wastewater treatment works meets the design specifications and effluent limitations contained in the loan agreement and National Pollutant Discharge Elimination System (NPDES) permit for the wastewater treatment works.
- If the loan recipient cannot certify that the wastewater treatment works will meet the design specifications and effluent limitations, a corrective action report must be submitted to the Agency within one year after initiation of operation. Failure to submit the report will subject the loan to penalties in accordance with Section 365.310 (Noncompliance with Loan Procedures).

(Source: Former Section 365.760 renumbered to Section 365.750 and new Section 365.760 renumbered from Section 365.770 at 20 Ill. Reg.

728, effective JAN 1 1996)

## Section 365.770 Project Performance Certification (Renumbered)

(Source: Section 365.770 renumbered to Section 365.760 at 20 Ill. Reg. 728, effective JAN 1 1996)

## SUBPART H: REQUIREMENTS APPLICABLE TO ACCESS, AUDITING, AND RECORDS

## Section 365.820 Audit and Records

- The loan recipient shall maintain books, records, documents, reports, and other evidentiary material and accounting procedures and practices in consistent with generally accepted government accounting standards in accordance with the American Institute of Public Accountants Professional Standards (666 Fifth Avenue, New York, New York 10019; June 1, 1987).

1) The receipt and disposition by the loan recipient of all assistance received for the project, including both State



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assistance and any matching share or cost sharing; and

2) The costs charged to the project, including all direct and indirect costs of whatever nature incurred for the performance of the project for which the loan has been provided. The foregoing constitutes "records" for the purposes of this subsection.

b) The loan recipient's facilities, or such facilities as may be engaged in the performance of the project for which the loan has been provided, and the loan recipient's records shall be subject at the times specified in Section 365.810 (Access) to inspection and audit by the Agency or any authorized representative.

c) The loan recipient shall preserve and make his records available to the Agency or any authorized representative.

1) For all costs associated with design and construction for a 3 year period after final closing ~~from the date of final Agency audit under this loan;~~

2) For all other accounting records concerning the loan for a 3 year period from the date of the transaction; and

3) For such longer period, if any, as is required by applicable statute or lawful requirement, or by subsections (d) and (e) below.

d) If this loan is terminated completely or partially, the records relating to the work terminated shall be preserved and made available for a period of 3 years from the date of any resulting final termination settlement.

e) Records which relate to appeals under the "Disputes" clause of this loan, litigation or the settlement of claims arising out of the performance of the project for which this loan was provided, or costs and expenses of the project as to which exception has been taken by the Agency or any of its duly authorized representatives, shall be retained until such appeals, litigation, claims, or exceptions have been disposed.

f) Any failure by the loan recipient or any contractor or subcontractor of the loan recipient to make records available to the Agency as required by Section 365.810 (Access) after 10 days written notice from the Agency, shall be cause for termination of the loan, pursuant to Section 365.330 (Termination) and refund to the State of Illinois for deposit into the Fund any unexpended loan funds and, in addition thereto, refund of any loan funds previously expended by the loan recipient, contractor or subcontractor found in compliance with this Section.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_, JAN 1 1996)

SUBPART I: REQUIREMENTS FOR SEWER USE ORDINANCE, USER CHARGES, FINANCIAL CAPABILITY, DEDICATED SOURCE OF REVENUE AND FLOODPLAIN INSURANCE

## Section 365.920 User Charges

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a) The loan applicant must obtain approval by the Agency of its proposed system of user charges prior to the execution of the loan agreement. The user charge system must be enacted and enforceable prior to the first loan disbursement.

b) The Agency's approval of a user charge system will be in accordance with the following criteria:

1) The user charge system must result in the distribution of the cost of operation, maintenance and replacement of treatment works within the loan recipient's service area to each user (or user class) in proportion to such user's contribution to the total wastewater loading of the wastewater treatment works. Factors such as strength, volume, and delivery flow rate characteristics shall be considered and included as the basis for the user's contribution to ensure a proportional distribution of operation, maintenance, and replacement costs to each user (or user class).

2) For the first year of operation of new facilities, operation, maintenance and replacement costs shall be based upon past experience for existing wastewater treatment works or some other rational method that can be demonstrated to be applicable.

3) The loan recipient shall review user charges annually and revise the rates periodically to reflect actual wastewater treatment works operation, maintenance, and replacement costs. The Agency may request a report on the loan recipient's status of the user charge system including projected costs, actual costs, revenue generated and fund balances.

4) The user charge system must generate sufficient revenue to offset the cost of all wastewater treatment works operation, maintenance and replacement required to be provided by the loan recipient.

5) The user charge system must be incorporated in one or more municipal legislative enactments or other appropriate authority. If the project is a regional treatment works accepting wastewaters from treatment works owned by others, then the subscribers receiving wastewater treatment services from the loan recipient shall have adopted user charge systems. Such user charge systems shall also be incorporated in the appropriate municipal legislative enactments, intergovernmental agreements or other appropriate authority.

c) Upon approval of a loan recipient's system of user charges, the implementation and maintenance of the approved system shall become a condition of the loan subject to the provisions of Section 365.310 (Noncompliance with Loan Procedures) hereof.

d) The loan recipient must maintain records necessary to document compliance. The loan recipient shall maintain such records in accordance with the provisions of the Local Records Act [50 ILCS 205] (3317-Rev-1987-ch-1167-pars. 43-46 et seq.).

e) The Agency or any authorized representative shall have access to any

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books, documents, papers, and records of the loan recipient which are applicable to the loan recipient's system of user charges for the purpose of making audit, examination, excerpts, and transcriptions thereof to ensure compliance with the provisions of subsection (b) above.

(Source: Amended at 20 Ill. Reg. 789, effective JAN 1 1996)

## Section 365.940 Dedicated Source of Revenue

- a) A source of revenue shall be dedicated and pledged to make the loan repayments. The Agency will review the proposed dedicated and pledged revenue source to determine that it will generate revenues adequate to make the loan repayments and will provide a continuing source of revenue adequate to make loan repayments for the term of the loan, prior to loan approval. If that source of revenue is pledged in a subordinate position to a revenue bond ordinance, the convenants regarding coverage and reserve shall be identical to that ordinance.
- b) The loan applicant shall make the necessary legislative enactments to dedicate and pledge the source of revenue, prior to the first loan disbursement.
- c) The loan applicant shall establish an account, maintained by a bank or trust, which is restricted to use for loan repayment, in which to deposit the dedicated revenues prior to the time of the first loan disbursement.
- d) The loan applicant shall, for the term of the loan, review and adjust the dedicated source of revenue as necessary, to provide adequate funds for the repayment of the loan. The recipient shall timely notify and submit, for the Agency's subsequent approval, all proposed changes to the dedicated source of revenue.
- e) The loan recipient shall submit to the Agency upon request a statement on the status of the restricted account after initiation of operation and on an annual basis thereafter for the term of the loan repayment period. This statement shall contain the status of the dedicated revenue account including the projected revenues, actual revenues fund balance, debt service obligations and other requirements of the loan agreement. The Agency's approval will be based on, but not limited to, ensuring that the revised dedicated source of revenue is legal, generates sufficient revenue and otherwise is in accordance with this Part.
- f) In the event that the actual revenues fall short of the amount required to retire the debt, the Agency will require the dedicated revenue source to be re-examined and restructured, as necessary.

(Source: Amended at 20 Ill. Reg. 789, effective JAN 1 1996)

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## SUBPART J: REQUIREMENTS APPLICABLE TO DISBURSEMENT OF LOANS TO RECIPIENTS

## Section 365.1010 Determination of Allowable Costs

The loan recipient will be paid, upon request, in accordance with Section 365.1030 (Disbursement of Loan Funds), for all costs within the scope of the approved project not to exceed the total loan provided and determined to be allowable in accordance with the following criteria:

## a) Allowable Project Costs

All reasonable and necessary costs directly attributable to the design and construction of an eligible, loan assisted wastewater project, if not forbidden for loan funding by legislation or non-waivable regulation. Categories of necessary costs may include but are not limited to the following:

- 1) The direct purchase of materials, equipment and personal services specifically necessary for the completion of a loan funded project;
- 2) Professional and consultant services contracts necessary for design, bidding, construction, and project performance certification of a loan funded project, except as elsewhere limited by this Part;
- 3) Costs under approved construction contracts; and
- 4) Costs for required insurance premium for floodplain insurance during the construction period.

## b) Ineligible Costs

Certain costs which may be related to construction of a treatment works are categorically ineligible for loan assistance, and are not subject to the allowability test of "reasonable and necessary."

- 1) Facilities planning costs;
- 2) Basin or areawide planning other than facilities planning;
- 3) Costs outside the scope of the approved facilities plan;
- 4) Site acquisition, including easement compensation, except in those instances where the land itself shall serve as the medium for treatment (e.g., land for spray irrigation of wastewater);
- 5) Collector sewers with wastewater capacity in excess of existing or planned treatment plant capacity; and
- 6) Construction of any facilities which do not clearly comply with the definition of a "treatment works" as contained in Section 212 of the Clean Water Act.

The loan recipient will be paid, upon request, in accordance with Section 365.1030 (Disbursement of Loan Funds), for all necessary costs within the scope of the approved project not to exceed the total loan provided and determined to be allowable in accordance with the following criteria:

- a) Allowable Project Costs: Project costs of the loan recipient which are reasonable and necessary are allowable. Necessary costs may include but are not limited to:



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- 1) The direct purchase of materials and equipment necessary for the completion of the proposed loan project. The direct purchase of personal services is an allowable cost only if the individuals are hired specifically to work on the proposed loan project.
- 2) Costs under construction contracts.
- 3) Professional and consultant services.
- 4) Actual costs incurred for preparation of user charge systems, construction drawings, specifications, estimates, surveys and construction contract documents, subject to the limitations in Section 365-460 (limitation on Design Cost).
- 5) Landscaping.
- 6) Observation of construction work.
- 7) Removal and relocation or replacement of utilities for which the loan recipient is legally obligated to pay.
- 8) Materials acquired, consumed, or expended specifically for the project.
- 9) An inventory of laboratory chemicals and supplies necessary to initiate plant operation.
- 10) Project identification sign.
- 11) Costs for required insurance premium for floodplain insurance during the construction period, and
- 12) Services of the prime engineer for project performance services during the one year period following initiation of operation.
- b) **Unallowable Costs**
- Some costs which are directly or indirectly related to the construction of a treatment works project are unallowable. Such costs include, but are not limited to:
- 1) Facilities planning costs.
- 2) Basin or areawide planning not directly related to the project.
- 3) Bonus payments for completion of construction in advance of a contractual completion date.
- 4) Personal injury compensation or damages arising out of the project, whether determined by adjudication or arbitration negotiation or otherwise.
- 5) Fines and penalties resulting from violations of or failure to comply with Federal, State or local laws.
- 6) Costs outside the scope of the approved project.
- 7) Ordinary operating expenses of local government, such as salaries and expenses of a mayor, city council members, or city attorney.
- 8) Site acquisition, fire, wastewater treatment plant sites, easements or sludge disposal areas except as otherwise provided in subsection (c)(1).
- 9) Costs for which payment has been or will be received under another State or Federal assistance program.
- 10) Costs of equipment or material procured in violation of any provisions of this Part.
- 11) Costs of special funds (i.e., industry advancement funds, funds to reimburse bidding costs to unsuccessful offerors, etc.)

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- financed by contractors, contributions in the construction industry for methods and materials research, public and industry relations, market development, labor management matters, wage negotiations, jurisdictional disputes, defraying of all or part of unsuccessful offerors bidding costs or similar purposes.
- 12) Costs for construction engineering where such costs are incurred after the expiration of the applicable contractual completion date, even if the contractual completion date is subsequently extended by the loan recipient, unless such extension has been approved by the Agency in accordance with Section 365-730 (Project Changes), and
- 13) Personal and professional service costs (including professional engineering costs) when the Agency has been refused access to the books and records of the contractor or the contractor has refused to renegotiate a personal or professional services contract in accordance with the provisions of Section 365-603 (Contracts for Personal and Professional Services Consulting Engineering Agreements) hereof.
- c) **Costs Allowable if Approved by the Agency**
- 1) **Land Acquisition**
- Land acquired after March 7, 1985, that will be an integral part of the treatment process or that will be used for ultimate disposal of residues resulting from such treatment (e.g., land for spray irrigation of wastewater effluent).
- 2) **Sewage Collection Systems**
- No project costs will be allowed for the construction of any sewage collection system until the Agency has made a determination in writing prior to initiation of construction that there is a wastewater treatment works of sufficient existing or planned capacity to adequately treat the sewage collected by the proposed sewage collection system.
- d) **Disputes Concerning Allowable Costs**
- The loan recipient shall seek to resolve any questions relating to cost allowability or allocation at its earliest opportunity. Final determinations by the Director concerning the allowability of costs shall be conclusive.

(Source: Amended at 20 Ill. Reg. 788 effective JAN 1 1986)

SUBPART K: PROCEDURES FOR LOAN REPAYMENT  
AND DELINQUENT REPAYMENT

## Section 365.1110 Loan Repayment to the Agency

Loan repayment to the Agency must be in accordance with the loan repayment schedule contained in the loan agreement.

- a) Loan repayments of principal and interest as determined by the Agency



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will commence not later than six (6) months ~~180--days~~ after the initiation of loan repayment period operation and will be due semi-annually unless the Agency determines that the dedicated source of revenue justifies an alternative repayment plan.

b) Subsequent to the established scheduled initiation of the loan repayment period operation date in the loan agreement, the Agency shall establish a principal amount and notify the loan recipient of an interim repayment schedule.

c) After a final cost review the Agency conducts the final audit of the project, the Agency shall establish the final principal amount and notify the loan recipient of a final repayment schedule.

d) For purposes of calculating the repayment schedules, the repayment period shall begin as follows:

- 1) The interim repayment period begins on the scheduled initiation of operation date in the loan agreement, and
- 2) The final repayment period begins on the next scheduled repayment due date following the final audit.

(Source: Amended at 20 Ill. Reg. 788, effective JAN 1 1986)

## Section 365.1120 Delinquent Loan Repayments

- a) In the event that a repayment is not made by a loan recipient according to the loan schedule of repayment, the loan recipient shall notify the Agency in writing within 15 days after the repayment due date. The notification shall include a statement for the reasons the repayment was not timely tendered, the circumstances under which the late repayment will be satisfied, and binding commitments to assure future repayments. After receipt of this notification, the Agency shall confirm in writing the acceptability of the plan or take action in accordance with subsection (b) below.
- b) In the event that a loan recipient fails to comply with subsection (a) above, the Agency shall promptly issue a notice of delinquency to the loan recipient which shall require a written response within 30 days. The notice of delinquency shall require that the loan recipient revise its rates, fees and charges to meet its obligations or take other specified actions as may be appropriate to remedy the delinquency and to assure future repayments.
- c) In the event that the loan recipient fails to timely or adequately respond to a notice of delinquency, or fails to meet its obligations made pursuant to subsections (a) and (b) above, the Agency shall pursue the collection of the amounts past due, the outstanding loan balance and the costs thereby incurred, either pursuant to the Illinois State Collection Act of 1986 [30 ILCS 210] ~~411--Rev--Stat--1987--ch--15--para--151--et--seq--~~ or by any other reasonable means as may be provided by law.

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(Source: Amended at 20 Ill. Reg. 788, effective JAN 1 1986)

## DEPARTMENT OF INSURANCE

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- 1) Heading of the Part: Credit Accident and Health Insurance
- 2) Code Citation: 50 Ill. Adm. Code 952
- 3) Section Number: Adopted Action:
- |        |                        |
|--------|------------------------|
| 952.10 | Renumbered             |
| 952.15 | New Section            |
| 952.20 | New Section            |
| 952.30 | New Section            |
| 952.40 | Renumbered and Amended |
- 4) Statutory Authority: Implementing Section 155.58 and authorized by Section 155.62 of the Illinois Insurance Code [215 ILCS 5/155.58 and 155.62].
- 5) Effective Date of Amendment: January 2, 1996
- 6) Does this Amendment contain an automatic repeal date? No
- 7) Does this Amendment contain incorporations by reference? No
- 8) Date filed in Agency's Principal Office: January 2, 1996
- 9) Notice of Proposal Published in Illinois Register:
- July 7, 1995, 19 Ill. Reg. 8882
- 10) Has JCAR issued a Statement of Objections to this Amendment? No
- 11) Difference(s) between proposal and final version:
- a) In the Source notes, change "19 Ill. Reg." to "20 Ill. Reg.".
- b) In the table of contents, change "Section-952-i0-Filing-and-Approval of-Premiums" to "Section 952.10 Filing and Approval of Premiums (Renumbered)".
- c) In the table of contents, change "952.40 Filing and Approval of Premiums" to "952-i0 952.40 Filing and Approval of Premiums" pursuant to 1 Ill. Adm. Code 100.345(a)(1)(B).
- d) Section 952, change "Section-952-i0-Filing-and-Approval-of-Premiums" to "Section 952.10 Filing of Approval of Premiums (Renumbered)". The remaining text of this Section has been deleted pursuant to 1 Ill. Adm. Code 100.345(b)(1)(A).
- e) Section 952.15, on the first line, change "procedure" to "procedures".

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- f) Section 952.20, change "[215 ILCS 5/155.52(b)]" to "[215 ILCS 5/155.52(b)]."
- g) Section 952.30, on the second line, change "during a specific time frame" to "a week."
- h) Section 952.30 on the fourth line, change "the number of hours the insured works during this time frame" to "a response indicating that the insured does or does not currently work the minimum number of hours." Also add "Additionally, if the credit accident and health insurance is offered on a guaranteed issue basis, the individual policy or group certificate must include a clear statement that stipulates the minimum number of hours that must be worked a week."
- i) Section 952.40, change "Section 952.40 Filing and Approval of Premiums" to "Section--952-i0 Section 952.40 Filing and Approval of Premiums" pursuant to 1 Ill. Adm. Code 100.345(b)(1)(B).
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No. Please refer to number eleven (11)(b) above.
- 13) Will this Amendment replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of rulemaking: The Department is making changes to establish procedures and standards for the review of credit accident and health forms.
- 16) Information and questions regarding this adopted Amendment shall be directed to:
- Mike Teer  
Department of Insurance  
320 West Washington  
Springfield, Illinois 62767-0001  
(217) 785-6441

The full text of the Adopted Amendment begins on the next page.

DEPARTMENT OF INSURANCE  
NOTICE OF ADOPTED AMENDMENTS  
TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER m: CREDIT LIFE AND CREDIT ACCIDENT INSURANCE  
PART 952  
CREDIT ACCIDENT AND HEALTH INSURANCE

Section  
952.10 Filing and Approval of Premiums (Renumbered)  
952.15 Purpose  
952.20 Definitions  
952.30 Credit Accident and Health Insurance Coverage  
952.40952+10 Filing and Approval of Premiums

AUTHORITY: Implementing Section 155.58 and authorized by Section 155.62 of the Illinois Insurance Code [215 ILCS 5/155.58 and 155.62].

SOURCE: Filed November 20, 1959, effective December 1, 1959; codified at 7 Ill. Reg. 3006; amended at 20 Ill. Reg. 830, effective JAN 2 1996.

Section 952.10 Filing and Approval of Premiums (Renumbered)

(Source: Section 952.10 renumbered to Section 952.40 at 20 Ill. Reg. \_\_\_\_\_, effective JAN 2 1996)

Section 952.15 Purpose

The purpose of this Part is to establish procedures and standards for the review and approval of credit accident and health insurance policy forms.

(Source: Added at 20 Ill. Reg. 830, effective JAN 2 1996)

Section 952.20 Definitions

"Credit accident and health insurance" means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy [215 ILCS 5/155.52(b)].

(Source: Added at 20 Ill. Reg. 830, effective JAN 2 1996)

Section 952.30 Credit Accident and Health Insurance Coverage

If coverage for credit accident and health insurance is contingent upon the insured working a minimum amount of hours during a specific time frame, then

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the application for insurance must contain a question eliciting the number of hours the insured works during this time frame.

(Source: Added at 20 Ill. Reg. 830, effective JAN 2 1996)

Section 952.40 952+10 Filing and Approval of Premiums

In determining whether or not the benefits in any policy form submitted by an insurer for approval are "reasonable" in relation to the premium, an ultimate loss ratio of fifty percent (50%) will be deemed to provide benefits reasonable in relation to the premium.

(Source: Section 952.40 renumbered from Section 952.10 and amended at 19 Ill. Reg. 830, effective JAN 2 1996)



## ILLINOIS LIQUOR CONTROL COMMISSION

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1) Heading of the Part: The Illinois Liquor Control Commission

2) Code Citation: 11 Ill. Adm. Code 100

3) Section Numbers: Adopted Action:

100.10 Amendment  
100.50 Amendment  
100.70 Amendment  
100.110 Amendment  
100.160 Amendment  
100.240 Amendment  
100.250 Amendment  
100.270 Amendment  
100.280 Amendment  
100.290 Amendment  
100.330 Amendment

4) Statutory Authority: The Liquor Control Act of 1934 [235 ILCS 5/3-12(2)]

5) Effective Date of Rulemaking: January 2, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: January 2, 1996

9) Notice of Proposal Published in Illinois Register: August 25, 1995, 19 Ill. Reg. 12165

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version: Added definitions for Sampling and Test Marketing; changes to 100.30 were deleted; changed credit cards to identification cards in Section 100.240; in Section 100.250 reworded to make the section clearer; in Section 100.270 amended to disallow central purchasing; reworded Section 100.280 as definitions were added to Section 100.10; and removed not-for-profit language in 100.330 to correspond to statute definition. In addition, various technical, editorial, and grammatical changes have been made in response to recommendations of the Joint Committee on Administrative Rules and the Administrative Code Division.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

## ILLINOIS LIQUOR CONTROL COMMISSION

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14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking:

Section 100.50 The Amendment is based on the United States Supreme Court's decision in Rubin v. Coors Brewing Co.

Section 100.70 was amended to include a non-resident dealer as well as an out-of-state manufacturer.

Section 100.110 was amended to require at least one individual eligible to sign the application for license be at least 18 years of age as Illinois law requires an incorporator to be at least 18.

Section 100.160 was amended to delete the prohibition of premixed alcoholic drinks being brand specific.

Section 100.240 was amended to allow retail licensees to set up an account system with a major credit card back-up.

Section 100.250 was amended to clarify that the transfer of alcoholic liquor is prohibited by both the buyer and seller.

Section 100.270 was amended to allow the central storage of alcoholic liquors for multi-use facilities that share the same Illinois Business Tax number.

Section 100.290 was amended to include a non-resident dealer as well as an out-of-state manufacturer.

Section 100.330 as amended allows the stated manufacturer and distributor to sponsor events.

16) Information and questions regarding these adopted rules shall be directed to:

Arabel Alva Rosales  
Executive Director  
Illinois Liquor Control Commission  
100 W. Randolph St. #5-300  
Chicago, IL 60601  
(312) 814-3930

The full text of the Adopted Rule begins on the next page:

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TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY  
SUBTITLE A: ALCOHOL  
CHAPTER I: ILLINOIS LIQUOR CONTROL COMMISSION

100.380 Ex Parte Consultations  
100.390 Review on Record -- Certification of Ordinance (Renumbered)  
100.400 Procedures Before the Commission (Renumbered)  
100.410 Ex Parte Consultations (Renumbered)

## PART 100

## THE ILLINOIS LIQUOR CONTROL COMMISSION

AUTHORITY: Implementing and authorized by Section 3-12(2) of the Liquor Control Act [235 ILCS 5/3-12(2)].

## Section

100.5 Penalties  
100.10 Definitions  
100.20 Employment of Minors  
100.30 Violation of Federal Law, State Statute or City, Village or County Ordinance or Regulation  
100.40 Local Liquor Control Commissioner's Report (Repealed)  
100.50 Advertising  
100.60 Geographical Territories  
100.70 Labels  
100.80 Bonds (Repealed)  
100.90 Credit to Retail Licensees  
100.100 Internal Changes Within Corporations  
100.110 Application Forms (Repealed)  
100.120 Railroad Licenses  
100.130 Books and Records  
100.140 Miniatures (Repealed)  
100.150 Salvaged Alcoholic Liquors  
100.160 Sanitation  
100.170 Taps  
100.180 Procedure Before Commission on Citations  
100.190 Procedure Before Commission on Request for Continuance of Any Hearing  
100.200 Wagering Stamps (Repealed)  
100.210 Inducements  
100.220 Retail Licensee Clubs (Repealed)  
100.230 Resumption of Business on Appeal  
100.240 Transactions Involving Use of Checks and Their Equivalent  
100.250 Transfer of Alcohol  
100.260 Uniform Systems of Accounts  
100.270 Multi-Use Facilities ~~Fingerprinting-of Applicants-(Repealed)~~  
100.280 Giving Away of Alcoholic Liquors  
100.290 Refilling  
100.300 Authorization to Remove Bottles  
100.310 Food Service at Park Districts  
100.320 Airplanes  
100.330 Advertising  
100.340 Petitions for the Adoption, Amendment or Repeal of a Rule  
100.350 Procedures For Filing Appeals From an Order of the Local Liquor Control Commissioner  
100.360 Review on Record -- Certification of Ordinance  
100.370 Procedures Before the Commission

SOURCE: Rules and Regulations of the Illinois Liquor Commission, amended March 31, 1977; amended July 7, 1977; amended at 3 Ill. Reg. 12, p. 65, effective March 22, 1979; codified at 5 Ill. Reg. 10706; amended at 8 Ill. Reg. 6041, effective April 19, 1984; amended at 12 Ill. Reg. 19387, effective November 7, 1988; amended at 18 Ill. Reg. 4811, effective March 9, 1994; amended at 20 Ill. Reg. 434, effective JAN 2 1996.

## Section 100.10 Definitions

The following words or phrases are defined as follows:

- a) "Resident" means any person (other than a corporation) who has resided and maintained a bona fide residence in the State of Illinois for at least one year and in the city, village or county in which the premises covered by the license are located for at least 90 days prior to making application for such license.
- b) "Corporation" means any corporation, domestic or foreign, qualified to do business in the State of Illinois under the Business Corporation Act of 1983 [805 ILCS 5], including a Limited Liability Company as defined in subsection (m) below.
- c) "Person" includes corporations, co-partnerships, associations, clubs, individuals, trustees, receivers, assignees, executors, administrators or other personal representatives of decedents.
- d) "Co-partnership" means an association of two or more persons to carry on as co-owners of a business for profit.
- e) "Partner" is any individual who is a member of a co-partnership.
- f) "Manager" or "Agent" means any individual employed by any licensed place of business, provided said individual possesses the same qualifications required of the licensee. Satisfactory evidence of such employment will be furnished the Commission in the form and manner as such Commission shall from time to time prescribe.
- g) "Premises" or "Place of Business" means the place or location where alcoholic beverages are manufactured, stored, displayed, offered for sale or where drinks containing alcoholic beverages are mixed, concocted and served for consumption. Not included are sidewalks, streets, parking areas and grounds adjacent to any such place or location.
- h) "Wine" means any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or spirits, as defined in the Act, provided that the alcoholic content

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- thereof does not exceed 24 per cent of alcohol by volume.
- i) "Alcoholic liquor" includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and, in the judgment of the State Commission, capable of being consumed as a beverage by a human being. The word "solid" means any substance which, by dilution or processing, becomes an alcoholic beverage.
- j) "Manufacturer" shall include every person who, in the process of filling or refilling an original package with alcoholic liquors purchased by such person, changes the degree or quality of such alcoholic liquors by any manner or means whatsoever.
- k) "Airplane" shall be deemed to include railroads and airplanes.
- l) "Act" means the Illinois Liquor Control Act [235 ILCS 5].
- m) "Limited Liability Company" means a legal business entity created and recognized under the Illinois Limited Liability Company Act [805 ILCS 180].
- n) "Meal" means food that is prepared and served on the licensed premises and excludes the serving of snacks.
- o) "Event" means a single theme.
- p) "Sampling" means a product offered at an on-premise retail licensee for a sales promotion of no more than the following amounts: Distilled Spirits 1/2 oz., Wine 2 oz., and Beer 6 oz.; only one product per day may be sampled and the sales promotion may not be advertised.
- q) "Test Marketing" means to test new products or products unfamiliar to the sampler through a marketing firm or the like.

(Source: Amended at 20 Ill. Reg. 934, effective JAN 2 1996)

## Section 100.50 Advertising

- a) General Requirements:
- Federal Alcohol Administration Regulation No. 4 relating to the advertising of wine (27 C.F.R. Section 4 (1995) (1993), no subsequent dates or editions), Federal Alcohol Administration Regulation No. 5 relating to the advertising of distilled spirits (27 C.F.R. Section 5 (1995) (1993), no subsequent dates or editions) and Federal Alcohol Regulation No. 7 relating to the advertising of malt beverages (27 C.F.R. Section 7 (1995) (1993), no subsequent dates or editions), are hereby adopted and made a part of this Section for advertising of wine, distilled spirits and malt beverages insofar as the federal Federal regulations are not contrary to, or inconsistent with, the provisions of the laws of Illinois or this Part.
- b) Advertising:

- 1) No licensee ~~manufacturer, distributor, importing distributor, or~~ retailer, or the agent or representative thereof, may advertise any alcoholic beverage in any medium intended for circulation,

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- viewing or listening within this State unless such advertisement is in conformity with the provisions of this Part.
- 2) Such advertisement shall conform to the approved label upon the immediate container of the alcoholic liquor so advertised.
- 3) ~~Such advertisement shall not refer to the alcoholic content of malt beverages.~~
- 3) Such advertisements shall not contain illustrations of children nor shall they make use of any material which would make a special appeal to juveniles.
- 4) Such advertisements shall not contain any material which is false or untrue in any respect.
- c) ~~Cost adjustment factor:~~
- 1) ~~A cost adjustment factor will be used to annually update the dollar limitations set forth in Section 6-6(f) and (i) of the Act (235 ILCS 5).~~
- 2) ~~The cost adjustment factor is a percentage equal to the change in the Bureau of Labor Statistics Consumer Price Index of 5% whichever is greater.~~

(Source: Amended 20 Ill. Reg. 934, effective JAN 2 1996)

## Section 100.70 Labels

- a) No manufacturer, nonresident dealer, distributor or importing distributor shall sell or deliver any package or container containing alcoholic liquor manufactured or delivered by such person unless the same is labeled in conformity with this Section Rule.
- b) General requirements and Restrictions:
- 1) Federal Alcohol Administration Regulations Nos. 4, 5 and 7 relating to the labeling of wine, distilled spirits and malt beverages (27 C.F.R. Section 4, 5, and 7, April 1995 1993, not including any later amendments or editions), are hereby adopted and made a part of this Section Rule for labeling every package or container of wine, distilled spirits and malt beverages, with the following exceptions:
- A) Wine includes all products as defined in Section 1-3.03 of the Act [235 ILCS 5/1-3.03] and Section 100.10(h) of this Part.
- B) Alcoholic content must be stated on all wine labels.
- 2) The aforesaid Regulations Regulations shall apply to wine, distilled spirits and malt beverages packaged purely for intrastate commerce within the State of Illinois to the same extent as though intended for interstate or foreign shipment.
- 3) No manufacturer, nonresident dealer, distributor or importing distributor shall affix any label to any package or container containing alcoholic liquor for sale or delivery in the State of Illinois until such label has been submitted to and approved by



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the federal ~~Federal~~ government. Such manufacturer, nonresident dealer, distributor or importing distributor shall submit to the Illinois Liquor Control Commission a photostatic copy of the federal ~~Federal~~ label approval.

- 4) No package or container containing alcoholic liquor labeled as "whiskey" or "gin" may be imported into, delivered or sold in the State of Illinois unless the entire alcoholic content thereof, except flavoring materials, is a distillate of fermented mash of grain or mixtures of grains. Packages or containers of alcoholic liquor of the type of whiskey or gin not conforming to the requirement must be labeled "imitation whiskey" or "imitation gin", as the case may be.

## 5) Wine Labels

- A) Wine labels must contain the name and address of the manufacturer or the bottler of the product.  
B) For the purpose of this Section, the use of an assumed trade name which has been registered with the Clerk of the County in which the manufacturer or bottler is located, is acceptable.

## 6) Malt Beverage Labels

- A) Malt beverage labels must contain the name and address of the brewery which manufactured or canned or bottled the product.  
B) For the purpose of this Section, the use of an assumed trade name which has been registered with the Clerk of the County in which the manufacturer or bottler is located, is acceptable.

## 7) Distilled Spirits Labels

- A) Labels of all alcoholic liquors other than wine and malt beverages must contain either the phrase "Bottled By" or "Distilled By" (or other descriptive identification of the manufacturer of the product) followed by the name and address of the bottler or manufacturer, as the case may be.  
B) For the purpose of this Section, the use of an assumed trade name which has been registered with the Clerk of the County in which the manufacturer or bottler is located, is acceptable.

- 8) No statement of age shall be made with respect to gins, cordials, liquors or specialties.

- 9) No person shall sell or offer for sale in this State any bottle, barrel, keg or other container of beer which shall have affixed thereto any label or statement showing the alcoholic content thereof.

- 10) The Commission shall withhold approval of any label if it has reasonable cause to believe that the wording or design contained on the label may, in any manner, tend to deceive the purchaser as to the true nature of such alcoholic liquor.

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(Source: Amended at 20 Ill. Reg. 234, effective JAN 2 1996)

## Section 100.110 Application Forms (Repeated)

At least one person eligible to be issued and to sign the application for a liquor license must be 18 years of age or older (e.g., officer, director, stockholder, manager, agent or partner).

(Source: Added at 20 Ill. Reg. 344, effective JAN 2 1996)

## Section 100.160 Sanitation

- a) All licensees must conduct their business in premises which are at all times kept clean and sanitary. This applies not only to licensed premises, but to places of storage as well. This includes also the place of storage for materials and equipment used in the manufacture of alcoholic liquor.

- b) Each retailer dispensing draught beer or wine shall have coils and other equipment used in drawing draught beer or wine cleaned at least once every week in some manner or means, either chemical or mechanical. The use of steam or hot water alone is not permissible. A record shall be kept of the dates when the cleaning was done, signed by the person who actually performed the cleaning.

- c) Any manufacturer, importing distributor or distributor who pays for the cleaning of coils of any retailer is in violation of 235 ILCS 5/6-5.

- d) No licensed manufacturer or importing distributor shall fill or refill any container of alcoholic liquor unless such person possesses upon the licensed premises adequate and sanitary equipment for cleaning, washing and sterilizing such container, and use such equipment before filling or refilling a container.

- e) ~~Pre-mixed alcoholic beverages must not be brand-specifier-but--of--the generic--type--Pre-mixed~~ alcoholic beverages and their containers must comply with all sanitation requirements as found in this Section, along with all prohibitions against refilling as found in Section 100.290(c). All pre-mix dispensing containers or systems must be drained, contents disposed of, and thoroughly cleaned at least once every week. For mechanical systems a record shall be kept on the premises as to the dates the cleaning was done, signed by the person who actually performed the cleaning.

(Source: Amended at 20 Ill. Reg. 344, effective JAN 2 1996)

## Section 100.240 Transactions Involving Use of Checks and Their Equivalent

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- a) No person shall sell or furnish alcoholic liquor at retail to any person on credit or on a passbook, or order on a store, or in exchange for any goods, wares or merchandise, or in payment for any services rendered. The use, however, of money orders, traveler's checks, drafts or checks or the equivalent of any of the foregoing shall not be deemed the extension of credit within the meaning of the foregoing provisions if not postdated and if deposited and collected in due course promptly.
- b) The use of credit cards or other authorizations, irrespective of form, when presented to and honored by a retail licensee for payment for alcoholic liquor consumed at retail on the premises, shall be deemed equivalent to the use of bank checks or bank drafts, if the retail licensee honoring such credit cards or authorizations receives payment in due course from such agency on a non-recourse basis.
- c) Payment in cash by the retail licensee shall mean payment in legal tender as provided by the United States Code, checks (including Certified checks, Cashier's checks, Teller's checks or Traveler's checks), drafts and electronic transfer of funds, provided the transfer of funds is initiated by an irrevocable payment order on or before delivery of the alcoholic liquor.
- d) The use of restaurant-credit identification cards issued by a restaurant retail licensee, when presented to and honored by a alcoholic liquor consumer at retail on the premises, shall be deemed equivalent to the use of bank checks or bank drafts, if the restaurant retail licensee honoring such identification credit cards or authorizations has on file for all restaurant-credit card holders a current, valid major credit card. If payment for the alcoholic beverages is not received in due course from the restaurant-credit card holder, then the restaurant retail licensee must charge the current, valid, major credit card in its file.

(Source: Amended at 20 Ill. Reg. 836, effective  
JAN 2 1996)

## Section 100.250 Transfer of Alcohol

The holder of a retail license for the privilege of selling alcoholic liquors at retail on the premises specified in such license, for use or consumption, is hereby restricted to such sale from the licensed premises only and is not permitted to sell to, purchase from or transfer such alcoholic liquor to any other retail licensee or licensed premises.

(Source: Amended at 20 Ill. Reg. 834, effective  
JAN 2 1996)

## Section 100.270 Multi-Use Facilities Fingerprinting of Applicants-(Repeated)

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A multi-use facility, such as a hotel, conference center, stadium, and theater, which has been issued more than one local and State liquor license but has an identical Illinois Business Retailer's Occupational Tax number, may store alcoholic liquor at one central location within the multi-use facility.

(Source: Added 20 Ill. Reg. 834, effective  
JAN 2 1996)

## Section 100.280 Giving Away of Alcoholic Liquors

- a) No licensee, individual, partnership or corporation shall give away any alcoholic liquor for commercial purposes or in connection with the sale of non-alcoholic products or to promote the sale of non-alcoholic products.
- b) No licensee shall give or offer to give away alcoholic liquor in connection with the sale of non-alcoholic products or to promote the sale of non-alcoholic products.
- b)c) No licensee, individual, partnership, or corporation or licensee shall advertise or promote in any way, whether on or off licensed premises, any of the practices prohibited under subsection (a) or words "free" or "complimentary" with alcoholic liquor.
- c) Subsection (a) above shall not apply to sampling or test marketing.

(Source: Amended at 20 Ill. Reg. 834, effective  
JAN 2 1996)

## Section 100.290 Refilling

No retail licensee shall offer for sale, or possess on said licensed premises:

a) Any original package of alcoholic liquor which contains any kind or quality of alcoholic liquor other than that which has been sealed and labeled by the manufacturer or nonresident dealer of alcoholic liquor, to contain and to convey said alcoholic liquor.

b) Any original package of alcoholic liquor to which there has been added any water or other substance.

c) Any bottles, casks, or other containers containing alcoholic liquor which contain any deleterious, contaminated, filthy, putrid substance or insects.

(Source: Amended at 20 Ill. Reg. 834, effective  
JAN 2 1996)

## Section 100.330 Advertising

- a) Pursuant to Sections 6-4, 6-5, and 6-6 of the Act [235 ILCS 5/6-4, 6-5, and 6-6], no retail licensee or entity having more than a 5% interest in a retail licensee shall have any direct or indirect

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interest in or control of any advertising or promotional company which receives funds directly or indirectly from, or for the account of, any manufacturer, non-resident dealer, broker, distributor, importer, distributor or foreign importer of alcoholic beverages; nor shall any manufacturer, non-resident dealer, broker, distributor, importer, distributor or foreign importer make any payment, direct or indirect, to any retailer, ~~retailer-cooperative~~ or any other entity which provides advertising, or promotional or display services for retailers company, in consideration of any advertising or promotional efforts of any kind not allowed under the Illinois Liquor Control Act or the rules and regulations of the Commission ~~coupling--the--name--of--any alcoholic--beverage--product--with--the--name--of--any--retailer--or retailer-cooperative.~~

b) Nothing herein shall prohibit any manufacturer, non-resident dealer, distributor, importer, distributor, or foreign importer from sponsoring an event at a venue which sole purpose is to host live entertainment, provided that no indirect or direct payment is made to the retailer and that any reference to the retailer in any advertising is incidental to the event itself.

c) Subsections (a) and (b) above do not apply to a person holding a special event retailer's license.

(Source: Amended at 20 Ill. Reg. 834, effective JAN 2 1996)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Aid to Families with Dependent Children
- 2) Code Citation: 89 Ill. Adm. Code 112
- 3) Section Numbers: Adopted Action:  
112.71 Amendment  
112.73 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 5/12-13] and P. A. 89-6.
- 5) Effective Date of Amendments: January 1, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: January 1, 1996
- 9) Notice of Proposal Published in Illinois Register: August 18, 1995 (19 Ill. Reg. 11773)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version: The following change was made in the text of the proposed amendments:  
  
In Section 112.71(a)(6), the closing period was stricken and replaced by an underlined semicolon.  
  
No other changes have been made in the text of the proposed amendments.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these Amendments replace Emergency Amendments currently in effect? Yes
- 14) Are there any Amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
112.70	Amendment	October 13, 1995 (19 Ill. Reg. 14292)
112.71	Amendment	October 13, 1995 (19 Ill. Reg. 14292)
112.72	Amendment	October 13, 1995 (19 Ill. Reg. 14292)
112.74	Amendment	October 13, 1995 (19 Ill. Reg. 14292)
112.76	Amendment	October 13, 1995 (19 Ill. Reg. 14292)



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112.77	Amendment	October 13, 1995 (19 Ill. Reg. 14292)
112.78	Amendment	October 13, 1995 (19 Ill. Reg. 14292)
112.79	Amendment	October 13, 1995 (19 Ill. Reg. 14292)
112.251	Amendment	July 21, 1995 (19 Ill. Reg. 10363)
112.252	Amendment	July 21, 1995 (19 Ill. Reg. 10363)
112.253	Amendment	July 21, 1995 (19 Ill. Reg. 10363)
112.254	Amendment	July 21, 1995 (19 Ill. Reg. 10363)
112.303	Amendment	October 6, 1995 (19 Ill. Reg. 13759)

- 15) Summary and Purpose of Amendments: These amendments establish the Adolescent Parent Program (APP) Demonstration for pregnant or parenting teens under the age of 16 to participate in the JOBS Teen Parent Initiative/Young Parent Services employment and training program effective August 1, 1995.

The Adolescent Parent Program (APP) is a demonstration project designed to evaluate whether mandating pregnant or parenting individuals under age 16 to participate in the Teen Parent Initiative/Young Parent Services under the Job Opportunities and Basic Skills Training (JOBS) Program (see Sections 112.70 through 112.83) will assist these individuals in obtaining a high school diploma or the equivalent and preparing for work.

The requirements for mandatory participation in the Adolescent Parent Program will be the same as for parents age 16 and older who are mandated to participate in JOBS. The demonstration will study the effects of the program requirements on the long-term self-sufficiency of parents under age 16.

Research conducted on the Adolescent Parent Program will include the number of clients who are required to participate, the proportion who actually participate in JOBS by attending school or classes full-time, the proportion who meet education requirements each semester, the use of supportive services including child care, the proportion who are sanctioned including the number of times sanctioned, the proportion with a child support court order including whether support is received and the amount received, the proportion of APP participants who leave welfare and the proportion who return to APP having once left.

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Judy Umunna  
Bureau of Rules and Regulations  
Illinois Department of Public Aid  
100 South Grand Avenue East, Third Floor  
Springfield, Illinois 62762  
Telephone: (217) 524-3215

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

The full text of the Adopted Amendments begins on the next page:

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## NOTICE OF ADOPTED AMENDMENTS

## TITLE 89: SOCIAL SERVICES

## CHAPTER I: DEPARTMENT OF PUBLIC AID

## SUBCHAPTER b: ASSISTANCE PROGRAMS

## PART 112

## AID TO FAMILIES WITH DEPENDENT CHILDREN

## SUBPART A: GENERAL PROVISIONS

## Section

112.1 Description of the Assistance Program  
112.5 Incorporation by Reference

## SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

## Section

112.8 Caretaker Relative  
112.9 Client Cooperation  
112.10 Citizenship  
112.20 Residence  
112.30 Age  
112.40 Relationship  
112.50 Living Arrangement  
112.52 Social Security Numbers  
112.54 Assignment of Medical Support Rights  
112.60 Lack of Parental Support or Care  
112.61 Death of a Parent  
112.62 Incapacity of a Parent  
112.63 Continued Absence of a Parent  
112.64 Unemployment of the Parent  
112.67 Restriction in Payment to Households Headed by a Minor Parent

## SUBPART C: JOB OPPORTUNITIES AND BASIC SKILLS TRAINING (JOBS) PROGRAM

## Section

112.70 Participation Requirements for JOBS  
112.71 Individuals Exempt from JOBS  
112.72 JOBS Participation/Cooperation Requirements  
112.73 Adolescent Parent Program ~~Failure--to--Participate--with--the--Work Incentive-Demonstration-Program-(Renumbered)~~  
112.74 JOBS Initial Assessment Process/Development of an Employability Plan  
112.76 JOBS Orientation  
112.77 Conciliation and Fair Hearings  
112.78 JOBS Components  
112.79 JOBS Sanctions  
112.80 Good Cause for Failure to Comply with JOBS Participation Requirements  
112.81 Responsible Relative Eligibility for JOBS  
112.82 JOBS Supportive Services  
112.83 Young Parents Program  
112.84 Work Experience Evaluation Project

## DEPARTMENT OF PUBLIC AID

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## Four Year College/Vocational Training Demonstration Project

## SUBPART E: PROJECT ADVANCE

## Section

112.85 Project Advance  
112.86 Project Advance Experimental and Control Groups  
112.87 Project Advance Participation Requirements of Experimental Group  
112.88 Members and Adjudicated Fathers  
112.89 Project Advance Cooperation Requirements of Experimental Group  
Members and Adjudicated Fathers  
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AUTHORITY: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8,



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1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 11, 1983; rules repealed and new rules adopted and codified at 7 Ill. Reg. 2720, effective February 28, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 11284, effective August 26, 1983; amended at 7 Ill. Reg. 13920, effective October 7, 1983; amended at 7 Ill. Reg. 15690, effective November 9, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16105; amended at 7 Ill. Reg. 17344, effective December 21, 1983; amended at 8 Ill. Reg. 213, effective December 27, 1983; emergency amendment at 8 Ill. Reg. 569, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4176, effective March 19, 1984; amended at 8 Ill. Reg. 5207, effective April 9, 1984; amended at 8 Ill. Reg. 7226, effective May 16, 1984; amended at 8 Ill. Reg. 11391, effective June 27, 1984; amended at 8 Ill. Reg. 12333, effective June 29, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17894; peremptory amendment at 8 Ill. Reg. 18127, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 19889, effective October 1, 1984; amended at 8 Ill. Reg. 19983, effective October 3, 1984; emergency amendment at 8 Ill.

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Reg. 21666, effective October 19, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21621, effective October 23, 1984; amended at 8 Ill. Reg. 25023, effective December 19, 1984; amended at 9 Ill. Reg. 282, effective January 1, 1985; amended at 9 Ill. Reg. 4062, effective March 15, 1985; amended at 9 Ill. Reg. 8155, effective May 17, 1985; emergency amendment at 9 Ill. Reg. 10094, effective June 19, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11317, effective July 5, 1985; amended at 9 Ill. Reg. 12795, effective August 9, 1985; amended at 9 Ill. Reg. 15887, effective October 4, 1985; amended at 9 Ill. Reg. 16277, effective October 11, 1985; amended at 9 Ill. Reg. 17827, effective November 18, 1985; emergency amendment at 10 Ill. Reg. 354, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 1172, effective January 10, 1986; amended at 10 Ill. Reg. 3641, effective January 30, 1986; amended at 10 Ill. Reg. 4885, effective March 7, 1986; amended at 10 Ill. Reg. 8118, effective May 1, 1986; amended at 10 Ill. Reg. 11017, effective June 6, 1986; Sections 112.78 through 112.86 and 112.88 recodified to 89 Ill. Adm. Code 160 at 10 Ill. Reg. 11928; emergency amendment at 10 Ill. Reg. 12107, effective July 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 12650, effective July 14, 1986; amended at 10 Ill. Reg. 14681, effective August 29, 1986; amended at 10 Ill. Reg. 15101, effective September 5, 1986; amended at 10 Ill. Reg. 15621, effective September 19, 1986; amended at 10 Ill. Reg. 21860, effective December 12, 1986; amended at 11 Ill. Reg. 2280, effective January 16, 1987; amended at 11 Ill. Reg. 3140, effective January 30, 1987; amended at 11 Ill. Reg. 4682, effective March 6, 1987; amended at 11 Ill. Reg. 5223, effective March 11, 1987; amended at 11 Ill. Reg. 6228, effective March 20, 1987; amended at 11 Ill. Reg. 9927, effective May 15, 1987; amended at 11 Ill. Reg. 12003, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 12432, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12908, effective July 30, 1987; emergency amendment at 11 Ill. Reg. 12935, effective August 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13625, effective August 1, 1987; amended at 11 Ill. Reg. 14755, effective August 26, 1987; amended at 11 Ill. Reg. 18679, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18781, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20114, effective December 4, 1987; Sections 112.90 and 112.95 recodified to Sections 112.52 and 112.54 at 11 Ill. Reg. 20610; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 844, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1929, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 2126, effective January 12, 1988; SUBPARTS C, D and E recodified to SUBPARTS G, H and I at 12 Ill. Reg. 2136; amended at 12 Ill. Reg. 3487, effective January 22, 1988; amended at 12 Ill. Reg. 6159, effective March 18, 1988; amended at 12 Ill. Reg. 6694, effective March 22, 1988; amended at 12 Ill. Reg. 7336, effective May 1, 1988; amended at 12 Ill. Reg. 7673, effective April 20, 1988; amended at 12 Ill. Reg. 9032, effective May 20, 1988; amended at 12 Ill. Reg. 10481, effective June 13, 1988; amended at 12 Ill. Reg. 14172, effective August 30, 1988; amended at 12 Ill. Reg. 14669, effective September 16, 1988; amended at 13 Ill. Reg. 70, effective January 1, 1989; amended at 13 Ill. Reg. 6017, effective April 14, 1989; amended at 13 Ill. Reg. 8567,

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effective May 22, 1989; amended at 13 Ill. Reg. 16006, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16142, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 705, effective January 1, 1990; amended at 14 Ill. Reg. 3170, effective February 13, 1990; amended at 14 Ill. Reg. 3575, effective February 23, 1990; amended at 14 Ill. Reg. 6306, effective April 16, 1990; amended at 14 Ill. Reg. 10379, effective June 20, 1990; amended at 14 Ill. Reg. 13652, effective August 10, 1990; amended at 14 Ill. Reg. 14140, effective August 17, 1990; amended at 14 Ill. Reg. 16937, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 338, effective January 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 2862, effective February 4, 1991, for a maximum of 150 days; emergency expired July 4, 1991; amended at 15 Ill. Reg. 5275, effective April 1, 1991; amended at 15 Ill. Reg. 5684, effective April 10, 1991; amended at 15 Ill. Reg. 11127, effective July 19, 1991; amended at 15 Ill. Reg. 11447, effective July 25, 1991; amended at 15 Ill. Reg. 14227, effective September 30, 1991; amended at 15 Ill. Reg. 17308, effective November 18, 1991; amended at 16 Ill. Reg. 9972, effective June 15, 1992; amended at 16 Ill. Reg. 11550, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 11652, effective July 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 13629, effective September 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17724, effective November 9, 1992; amended at 16 Ill. Reg. 20147, effective December 14, 1992; amended at 17 Ill. Reg. 357, effective December 24, 1992; amended at 17 Ill. Reg. 813, effective January 15, 1993; amended at 17 Ill. Reg. 2253, effective February 15, 1993; amended at 17 Ill. Reg. 4312, effective March 25, 1993; emergency amendment at 17 Ill. Reg. 6325, effective April 9, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6792, effective April 21, 1993; amended at 17 Ill. Reg. 15017, effective September 3, 1993; amended at 17 Ill. Reg. 19156, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19696, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 5909, effective March 31, 1994; amended at 18 Ill. Reg. 6994, effective April 27, 1994; amended at 18 Ill. Reg. 8703, effective June 1, 1994; amended at 18 Ill. Reg. 10774, effective June 27, 1994; amended at 18 Ill. Reg. 12805, effective August 5, 1994; amended at 18 Ill. Reg. 15774, effective October 17, 1994; expedited correction at 19 Ill. Reg. 998, effective October 17, 1994; amended at 19 Ill. Reg. 2845, effective February 24, 1995; amended at 19 Ill. Reg. 5609, effective March 31, 1995; amended at 19 Ill. Reg. 7883, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 10206, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12011, effective August 7, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 12664, effective September 1, 1995; emergency amendment at 19 Ill. Reg. 15244, effective November 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15661, effective November 3, 1995; emergency amendment at 19 Ill. Reg. 15839, effective November 15, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 16295, effective December 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 845, effective JAN 1 1996.

SUBPART C: JOB OPPORTUNITIES AND BASIC SKILLS TRAINING (JOBS) PROGRAM

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

## Section 112.71 Individuals Exempt from JOBS

a) An individual shall be exempt from JOBS participation when that individual:

- 1) Is age 16 through 18 in full-time elementary, secondary grades 9-12 or equivalent vocational/technical school attendance unless the child is required to participate in the Youth Employment and Training Initiative. If the individual loses this exemption because he or she is no longer in school, the exemption is no longer applicable even if the individual returns to school;
- 2) Temporary and Chronic Illness or Injuries

A) Temporary Illness and Injuries

- i) Is temporarily ill or chronically ill. An individual is temporarily ill, when determined by the local office, on the basis of medical evidence (for example e.g., statement from a medical provider) or on another sound basis that the illness or injury is serious enough to temporarily prevent the individual from engaging in employment or participating in JOBS. A sound basis for exemption from JOBS, on a temporary basis, includes but is not limited to: the observation of a cast on a broken leg or the client provides information of a scheduled surgery or recuperation from surgery;

ii) Minor ailments and injuries, such as colds, broken fingers or rashes are not serious enough normally to exempt the individual under this criterion;

B) An individual is chronically ill or incapacitated, as determined by the local office, when a physician or licensed/certified psychologist finds that a physical or mental impairment, either by itself or in conjunction with age or other factors, prevents the individual from engaging in employment or participating in JOBS. This may include a period of recuperation after childbirth if prescribed by a woman's physician;

C) When an individual is determined either temporarily or chronically ill or incapacitated, the exemption shall continue until further action is taken by the Department. When the exemption is initially granted, the Department will establish a date as to when the condition warranting the exemption is expected to end or when a review of the case will be reevaluated to determine whether the exempted individual continues to be exempt under the same procedures as for the initial determination of exemption, with appropriate notice to the individual that the reevaluation is necessary;

- 3) Is under age 16 or is age 60 years or older unless the child is required to participate in the Youth Employment and Training



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## NOTICE OF ADOPTED AMENDMENTS

Initiative or the pregnant or parenting individual under age 16 is required to participate in the Adolescent Parent Program (see Section 112.73);

4) Resides in an area remote from the JOBS office or service unit so that effective participation in the program is precluded. The individual is considered remote if a round trip of more than two hours by reasonably available public or private transportation, exclusive of time necessary to transport children to and from a child care facility, would be required for a normal work or training day or if an individual has no means of transportation available;

5) Has another household member for whom that individual must provide full-time care;

6) Is the parent or other caretaker relative of a child under age three in the home (other than a minor parent under age 20 without a high school diploma or equivalent who is required to participate in education) who is personally providing care for the child. Only one person in a case may be exempt for this reason;

7) Employment

A) Is employed 30 hours or more per week;

B) This exemption continues to apply if there is a temporary break in full-time employment expected to last no longer than ten work days;

8) Is in the 4th month of pregnancy or later; or

9) Is a person enrolled full-time as a VISTA volunteer under Title I of the 1973 Domestic Volunteer Services Act (42 USC 4951 et seq.).

b) Individuals who request an exemption from participation in JOBS shall do so in writing with the assistance of the JOBS worker or other Department staff, if needed, and shall receive a written notice of decision on such request within 45 days. Requests for an exemption may be made at:

- 1) application for assistance;
- 2) orientation;
- 3) assessment;
- 4) reassessment;
- 5) AFDC eligibility redeterminations;
- 6) child request; or
- 7) whenever information received by the Department indicates the possibility of an exemption.

c) Exempt individuals may volunteer for JOBS.

(Source: Amended at 20 Ill. Reg. 845, effective

JAN 1 1986)

Section 112.73 Adolescent Parent Program Failure to Participate with the Work Incentive Demonstration Program (Renumbered)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

a) The Adolescent Parent Program (APP) is a demonstration project designed to evaluate whether mandating pregnant or parenting individuals under age 16 to participate in the Teen Parent Initiative/Young Parent Services under the Job Opportunities and Basic Skills Training (JOBS) Program (see Sections 112.70 through 112.83) will assist these individuals in obtaining a high school diploma or the equivalent and preparing for work.

b) The requirements for mandatory participation in the APP shall be the same as for parents age 16 and older who are mandated to participate in JOBS.

c) The APP will be implemented on August 1, 1995, and shall end no later than July 31, 1999.

d) The demonstration will study the effects of the program requirements on the long-term self-sufficiency of parents under age 16.

1) Research conducted on the APP will include the number of clients who are required to participate, the proportion who actually participate in JOBS by attending school or classes full-time, the proportion who meet education requirements each semester, the use of supportive services including child care, the proportion who are sanctioned including the number of times sanctioned, the proportion with a child support court order including whether support is received and the amount received, the proportion of APP participants who leave welfare and the proportion who return to APP having once left.

2) The evaluation will be a process study and will describe the implementation and operation of the APP.

(Source: Section renumbered to Section 112.79 at 11 Ill. Reg. 4682, effective March 6, 1987; new Section added at 20 Ill. Reg. 845, effective JAN 1 1986)



## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Aid to the Aged, Blind or Disabled
- 2) Code Citation: 89 Ill. Adm. Code 113
- 3) Section Numbers: Adopted Action:  
113.262 New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13].
- 5) Effective Date of Amendments: December 29, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: December 29, 1995
- 9) Notice of Proposal Published in Illinois Register: September 29, 1995 (19 Ill. Reg. 13489)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version: No changes have been made in the text of the proposed amendments.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these Amendments replace Emergency Amendments currently in effect?  
No
- 14) Are there any Amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: These amendments establish procedures for diverting a client's income to meet the needs of an ineligible dependent spouse and children. The establishment of these procedures will allow the Department to eliminate the grant adjustment allowance when determining the needs of ineligible dependents.  
  
As a result of this rulemaking, a client's non-SSI income may be diverted to meet the needs of the following individuals who live in the home and have insufficient income to meet their needs:
  - a. an ineligible dependent spouse, and
  - b. an ineligible dependent child or children under age 21.

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The non-SSI income can be diverted in an amount equal to the total amount of needs of the ineligible dependent or dependents minus the income of the dependent or dependents. The client's income is not diverted when the client's only income is SSI or the spouse and/or child or children are receiving public assistance (MAG or MANG).

If the client's income can be diverted to meet the needs of an ineligible dependent spouse and child or children, the amount of income to divert will be determined as follows:

- a. The needs of the ineligible spouse and/or children are determined. If the ineligible dependent is a spouse with no dependent children, the AABD financial assistance standard will be used to determine the dependent spouse's needs. A grant adjustment allowance will not be included when that determination is made. If the ineligible dependent or dependents is a child or children or a spouse and a child or children, the AFDC Payment Level appropriate for the county in which the family resides will be used to determine the needs of the dependents.
- b. The amount of countable monthly income of the spouse and/or children is determined.
- c. The needs of the spouse and/or children is compared to their countable monthly income.
  1. If the income of the spouse and/or children is greater than their needs, the client's income is not diverted.
  2. If the income of the spouse and/or children is less than their needs, the client's income is diverted in an amount which is the lesser of the client's non-SSI income or the unmet needs of the spouse and/or children.

16) Information and questions regarding these Adopted Amendments shall be directed to:

Judy Umunna  
Bureau of Rules and Regulations  
Illinois Department of Public Aid  
100 South Grand Avenue East, Third Floor  
Springfield, Illinois 62762  
(217) 524-3215

The full text of the Adopted Amendments begins on the next page:

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER b: ASSISTANCE PROGRAMS

## PART 113

AID TO THE AGED, BLIND OR DISABLED

## SUBPART A: GENERAL PROVISIONS

Section  
113.1 Description of the Assistance Program  
113.5 Incorporation By Reference

## SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

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113.9 Client Cooperation  
113.10 Citizenship  
113.20 Residence  
113.30 Age  
113.40 Blind  
113.50 Disabled  
113.60 Living Arrangement  
113.70 Institutional Status  
113.80 Social Security Number

## SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section  
113.100 Unearned Income  
113.101 Budgeting Unearned Income  
113.102 Budgeting Unearned Income of Applicants Receiving Income On Date of Application And/Or Date of Decision  
113.103 Initial Receipt of Unearned Income  
113.104 Termination of Unearned Income  
113.105 Unearned Income In-Kind  
113.106 Earnmarked Income  
113.107 Lump Sum Payments and Income Tax Refunds  
113.108 Protected Income (Repealed)  
113.109 Earned Income (Repealed)  
113.110 Budgeting Earned Income (Repealed)  
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113.114 Budgeting Earned Income of Applicants Receiving Income On Date of Application And/Or Date of Decision  
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113.116 Budgeting Earned Income For Contractual Employees  
113.117 Budgeting Earned Income For Non-contractual School Employees  
113.118 Termination of Employment  
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113.125 Recognized Employment Expenses  
113.130 Income From Work/Study/Training Programs  
113.131 Earned Income From Self-Employment  
113.132 Earned Income From Roomer and Boarder  
113.133 Earned Income From Rental Property  
113.134 Earned Income In-Kind  
113.139 Payments from the Illinois Department of Children and Family Services  
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113.141 Exempt Assets  
113.142 Asset Disregard  
113.143 Deferral of Consideration of Assets  
113.154 Property Transfers For Applications Filed Prior To October 1, 1989 (Repealed)  
113.155 Property Transfers For Applications Filed On Or After October 1, 1989 (Repealed)  
113.156 Court Ordered Child Support Payments of Parent/Step-Parent  
113.157 Sponsors of Aliens  
113.160 Assignment of Medical Support Rights

## SUBPART D: PAYMENT AMOUNTS

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113.245 Payment Levels for AABD  
113.246 Personal Allowance  
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113.248 Shelter  
113.249 Utilities and Heating Fuel  
113.250 Laundry  
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113.252 Transportation, Lunches, Special Fees  
113.253 Allowances for Increase in SSI Benefits  
113.254 Nursing Care or Personal Care in Home Not Subject to Licensing  
113.255 Sheltered Care in a Licensed Group Care Facility  
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113.258 Home Delivered Meals  
113.259 AABD Fuel and Utility Allowances By Area  
113.260 Sheltered Care Rates  
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113.262 Meeting the Needs of an Ineligible Dependent with Client's Income

## SUBPART E: OTHER PROVISIONS

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 113.300 Persons Who May Be Included In the Assistance Unit  
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 113.303 Special Needs Authorizations  
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 113.307 Property Repairs and Maintenance  
 113.308 Excess Shelter Allowance  
 113.309 Limitation on Amount of AABD Assistance to Recipients from Other States  
 113.320 Redetermination of Eligibility  
 113.330 Attorney's Fees for VA Appellants

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 113.400 Description of the Interim Assistance Program  
 113.405 Pending SSI Application  
 113.410 More Likely Than Not Eligible for SSI  
 113.415 Non-Financial Factors of Eligibility  
 113.420 Financial Factors of Eligibility  
 113.425 Payment Levels for Chicago Interim Assistance Cases  
 113.430 Payment Levels for all Interim Assistance Cases Outside Chicago  
 113.435 Medical Eligibility  
 113.440 Attorney's Fees for SSI Applicants  
 113.445 Advocacy Program for Persons Receiving Interim Assistance  
 113.450 Limitation on Amount of Interim Assistance to Recipients from Other States  
 113.500 Attorney's Fees for SSI Appellants (Renumbered)

AUTHORITY: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code (305 ILCS 5/Art. III and 12-13).

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13,

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1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 10, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 9367, effective August 1, 1983; amended at 7 Ill. Reg. 17351, effective December 21, 1983; amended at 8 Ill. Reg. 537, effective December 30, 1983; amended at 8 Ill. Reg. 5225, effective April 9, 1984; amended at 8 Ill. Reg. 6746, effective April 27, 1984; amended at 8 Ill. Reg. 11414, effective June 27, 1984; amended at 8 Ill. Reg. 13273, effective July 16, 1984; amended (by sections being codified with no substantive change) at 8 Ill. Reg. 17895; amended at 8 Ill. Reg. 18896, effective September 26, 1984; amended at 9 Ill. Reg. 5335, effective April 5, 1985; amended at 9 Ill. Reg. 8166, effective May 17, 1985; amended at 9 Ill. Reg. 8657, effective May 25, 1985; amended at 9 Ill. Reg. 11302, effective July 5, 1985; amended at 9 Ill.



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Reg. 11636, effective July 8, 1985; amended at 9 Ill. Reg. 11991, effective July 12, 1995; amended at 9 Ill. Reg. 12806, effective August 9, 1995; amended at 9 Ill. Reg. 15896, effective October 4, 1985; amended at 9 Ill. Reg. 16291, effective October 10, 1985; emergency amendment at 10 Ill. Reg. 364, effective January 1, 1986; amended at 10 Ill. Reg. 1183, effective January 10, 1986; amended at 10 Ill. Reg. 6956, effective April 16, 1986; amended at 10 Ill. Reg. 8794, effective May 12, 1986; amended at 10 Ill. Reg. 10628, effective June 3, 1986; amended at 10 Ill. Reg. 11920, effective July 3, 1986; amended at 10 Ill. Reg. 15110, effective September 5, 1986; amended at 10 Ill. Reg. 15631, effective September 19, 1986; amended at 11 Ill. Reg. 3150, effective February 6, 1987; amended at 11 Ill. Reg. 8712, effective April 20, 1987; amended at 11 Ill. Reg. 9919, effective May 15, 1987; emergency amendment at 11 Ill. Reg. 12441, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20880, effective December 14, 1987; amended at 12 Ill. Reg. 867, effective January 1, 1988; amended at 12 Ill. Reg. 2137, effective January 11, 1988; amended at 12 Ill. Reg. 3497, effective January 22, 1988; amended at 12 Ill. Reg. 5642, effective March 15, 1988; amended at 12 Ill. Reg. 6151, effective March 22, 1988; amended at 12 Ill. Reg. 7687, effective April 22, 1988; amended at 12 Ill. Reg. 8662, effective May 13, 1988; amended at 12 Ill. Reg. 9023, effective May 20, 1988; amended at 12 Ill. Reg. 9669, effective May 24, 1988; emergency amendment at 12 Ill. Reg. 11828, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 14162, effective August 30, 1988; amended at 12 Ill. Reg. 17849, effective October 25, 1988; amended at 13 Ill. Reg. 63, effective January 1, 1989; emergency amendment at 13 Ill. Reg. 3402, effective March 3, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 6007, effective April 14, 1989; amended at 13 Ill. Reg. 12553, effective July 12, 1989; amended at 13 Ill. Reg. 13609, effective August 11, 1989; emergency amendment at 13 Ill. Reg. 14467, effective September 1, 1989, for a maximum of 150 days; emergency amendment at 13 Ill. Reg. 16154, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 720, effective January 1, 1990; amended at 14 Ill. Reg. 6321, effective April 16, 1990; amended at 14 Ill. Reg. 13187, effective August 6, 1990; amended at 14 Ill. Reg. 14806, effective September 3, 1990; amended at 14 Ill. Reg. 16957, effective September 30, 1990; amended at 15 Ill. Reg. 277, effective January 1, 1991; emergency amendment at 15 Ill. Reg. 1111, effective January 10, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5291, effective April 1, 1991; amended at 15 Ill. Reg. 5698, effective April 10, 1991; amended at 15 Ill. Reg. 7104, effective April 30, 1991; amended at 15 Ill. Reg. 11142, effective July 22, 1991; amended at 15 Ill. Reg. 11948, effective August 12, 1991; amended at 15 Ill. Reg. 14073, effective September 11, 1991; emergency amendment at 15 Ill. Reg. 15119, effective October 7, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 16709, effective November 1, 1991; amended at 16 Ill. Reg. 3468, effective February 20, 1992; amended at 16 Ill. Reg. 9986, effective June 15, 1992; amended at 16 Ill. Reg. 11565, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 13641, effective September 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14722, effective September 15, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17154, effective November 1, 1992, for a maximum of

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150 days; emergency amendment at 16 Ill. Reg. 17764, effective November 13, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 827, effective January 15, 1993; amended at 17 Ill. Reg. 2263, effective February 15, 1993; amended at 17 Ill. Reg. 3202, effective February 26, 1993; amended at 17 Ill. Reg. 4322, effective March 22, 1993; amended at 17 Ill. Reg. 6804, effective April 21, 1993; amended at 17 Ill. Reg. 14612, effective August 26, 1993; amended at 18 Ill. Reg. 2018, effective January 21, 1994; amended at 18 Ill. Reg. 7759, effective May 5, 1994; amended at 18 Ill. Reg. 12818, effective August 5, 1994; amended at 19 Ill. Reg. 1052, effective January 26, 1995; amended at 19 Ill. Reg. 2875, effective February 24, 1995; amended at 19 Ill. Reg. 6639, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 8409, effective June 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15034, effective October 17, 1995; amended at 20 Ill. Reg. 658, effective DEC 29 1995.

## SUBPART D: PAYMENT AMOUNTS

### Section 113.262 Meeting the Needs of an Ineligible Dependent with Client's Income

- a) The client's non-SSI income may be diverted to meet the needs of an ineligible dependent who has insufficient income to meet his or her own needs.
- b) The non-SSI income is diverted in an amount equal to the total amount of needs of the ineligible dependent or dependents less the income of the dependent or dependents. The amount of diverted income shall not exceed the total of the client's non-SSI budgetable income.
  - 1) If the ineligible dependent is a spouse only, the AABD financial assistance standard shall be used to determine the dependent's needs. A grant adjustment allowance shall not be included.
  - 2) If the ineligible dependent or dependents is a child or children or a spouse and a child or children, the AFDC Payment Level shall be used to determine the dependent's needs.

(Source: Added at 20 Ill. Reg. \_\_\_\_\_, effective DEC 29 1995)

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## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Demonstration Programs
- 2) Code Citation: 89 Ill. Adm. Code 170
- 3) Section Number: Adopted Action:  
170.300 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and P.A. 89-6.
- 5) Effective Date of Amendments: January 1, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: January 1, 1996
- 9) Notice of Proposal Published in Illinois Register: July 7, 1995 (19 Ill. Reg. 8933)

- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version: The following changes were made in the text of the proposed amendments.

1. New Section 170.300(d) was added as follows:

"Social Service Networks should be specifically equipped to address the causes of truancy, at no cost to the family other than normal co-payment under existing programs."

The remaining subsections were renumbered accordingly.

2. "except in the case of year-round schools." was added at the end of new Section 170.300(j).

No other changes have been made in the text of the proposed amendments.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

- 13) Will these Amendments replace Emergency Amendments currently in effect? No

- 14) Are there any Amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation

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## NOTICE OF ADOPTED AMENDMENTS

170.350	New Section	July 21, 1995 (19 Ill. Reg. 10381)
170.360	New Section	August 4, 1995 (19 Ill. Reg. 11316)
170.370	New Section	August 4, 1995 (19 Ill. Reg. 11316)
170.380	New Section	October 6, 1995 (19 Ill. Reg. 13789)
170.390	New Section	November 27, 1995 (19 Ill. Reg. 15786)
170.400	New Section	November 17, 1995 (19 Ill. Reg. 15572)
170.450	New Section	December 1, 1995 (19 Ill. Reg. 16025)

- 15) Summary and Purpose of Amendments: Due to recent legislative changes contained in Public Act 89-6 and the Department's commitment to reduce a family's potential need for long-term dependency, the Department is implementing policy and procedures designed to improve children's attendance in elementary school. The goal is to help students establish consistent patterns of school attendance and prevent future truancy. The School Attendance Initiative links the Department, elementary schools and established community agencies to help remove barriers that prevent children from regularly attending school.

Starting with the 1995-1996 school year, participating elementary schools will identify and work with AFDC children and their families who have demonstrated a problem with absenteeism. School personnel will identify children, in grades one through six, who are not attending school regularly. The school will be responsible for defining irregular school attendance. For example, irregular school attendance may be defined as:

1. a combination of five absences, tardies or early departures within a 30 day period;
2. a pattern of absence, tardiness or early departures, such as absence every Friday within a 30 day period; or
3. a pattern of all children in the family being absent on the same day.

These amendments establish the provisions for the Department's demonstration to improve children's attendance in elementary school. The demonstration will be available statewide where schools and social service networks are willing to participate. A small percentage of clients will be randomly assigned to serve as a control group for purposes of the waiver of federal requirements. These clients will not be subject to the sanction provisions referred to in Section 170.300(g).

AFDC families whose children do not attend school regularly will be referred for appropriate social services. For families who do not cooperate, the AFDC check will be sent to the social service agency. If attendance does not improve after three months, the adult portion of the grant will be sanctioned. The sanction will not be implemented until approval is received on the Department's waiver request.

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Related amendments are being adopted in 89 Ill. Adm. Code 117.

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Judy Umunna  
Bureau of Rules and Regulations  
Illinois Department of Public Aid  
100 South Grand Avenue East, Third Floor  
Springfield, Illinois 62762  
Telephone: (217) 524-3215

The full text of the Adopted Amendments begins on the next page:

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER 9: DEMONSTRATION PROGRAMS

## PART 170

## DEMONSTRATION PROGRAMS

SUBPART A: THE FRESH START  
WELFARE REFORM DEMONSTRATION PROGRAM

Section	Youth Employment and Training Initiative
170.10	Paternal Involvement Project
170.20	Homeless Families Support Project
170.30	Family Responsibility Project
170.40	Income Budgeting Project
170.50	

## SUBPART B: THE CAREER ADVANCEMENT PROGRAM

Section	The Career Advancement Program
170.100	Career Advancement Experimental and Control Groups
170.110	Career Advancement Participation Requirements of Experimental Group Members
170.120	
170.130	Career Advancement Supportive Services for Experimental Group Members

## SUBPART C: COMMUNITY GROUP PARTICIPATION PROGRAM

Section	Community Group Participation Program
170.200	

## SUBPART D: EARNED INCOME INITIATIVE

Sections	Work Pays Demonstration
170.250	

## SUBPART E: THE SCHOOL ATTENDANCE INITIATIVE FAMILY-DEVELOPMENT-PLAN

170.300	School Attendance Initiative Family-Prevention-Project
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AUTHORITY: Implementing and authorized by Sections 4-8, 11-20, 12-13 and 12-4.28 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 4-8, 11-20, 12-13 and 12-4.28) [305 ILCS 5/4-8, 11-20, 12-13 and 12-4.28].

SOURCE: Adopted at 13 Ill. Reg. 14067, effective August 23, 1989; amended at 14 Ill. Reg. 19320, effective November 30, 1990; amended at 17 Ill. Reg. 19197, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19721, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg.



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3372, effective February 28, 1994; emergency amendment at 19 Ill. Reg. 645, effective January 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 7901, effective June 8, 1995; emergency amendment at 19 Ill. Reg. 15256, effective November 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 16314, effective December 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 886, effective JAN 1 1996.

SUBPART E: THE SCHOOL ATTENDANCE INITIATIVE FAMILY-DEVELOPMENT-PLANSection 170.300 School Attendance Initiative Truancy-Prevention-Project

- a) The Department is implementing a demonstration to improve children's attendance in elementary school.
- b) The demonstration will be available statewide where schools and social service networks are willing to participate. A small percentage of clients will be randomly assigned to serve as a control group for purposes of the waiver of federal requirements. These clients will not be subject to the sanction provisions referred to in subsection (g) of this Section.
- c) Participating elementary schools will identify children in grades one through six who receive AFDC and who are not attending school regularly, as defined by the school. If the schools cannot address the families' problems that appear to be resulting in irregular school attendance, they will refer the families to participating social service networks. The family will be notified in writing of the referral and the consequences for non-cooperation with the referral.
- d) Social Service Networks should be specifically equipped to address the causes of truancy, at no cost to the family other than normal co-payment under existing programs.

e) Upon referral, a social service network representative will assess the specific family situation and will develop a service plan with the family that will include getting the child to regularly attend school. Upon failure of the family to cooperate with the referral, or with the service plan as determined by the social service provider, the family will be placed under a Protective Payee with the social service network representative acting as the payee for the family's AFDC grant. The provisions of 89 Ill. Adm. Code 117.10 shall otherwise apply.

g) The Protective Payee will remain in effect until the family follows through with the service plan, as determined by the social service provider. The Protective Payee may be discontinued during the months of June, July and August at the option of the service provider.

h) If a protective payee plan referred to in subsection (e) of this Section has been in effect for at least three months and the child continues to regularly miss school, as defined by the school, the grantee's portion of the AFDC grant will be sanctioned. In a two-parent household, if the grantee is participating in the AFDC JOBS program or is sanctioned for another reason, the other adult's portion

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## NOTICE OF ADOPTED AMENDMENTS

- i) of the grant will be sanctioned.
- The sanction will remain in effect until the child has demonstrated satisfactory school attendance, as defined by the school.
- j) Sanctions will not be applied during the months of June, July and August, except in the case of year-round schools.

k) A sanction for non-cooperation with the Child Support Enforcement Program will supersede a sanction under this Section.

a) The Department is implementing a pilot program designed to improve children's attendance in elementary school.

b) Participating schools will identify children who are beginning to show attendance problems and who receive APBE. The schools will contact the families as an initial means to resolve the matter. If the families have problems, the schools cannot address them, they will be referred to a social service network for appropriate community social service agency or agencies services. The appropriate local public aid office will also be notified of these referrals.

c) When a family referred under subsection (b) of this Section cooperates with the referral, a social service network representative will develop a service plan with the family involving service provision by appropriate community social service agencies.

d) The Department will also inform the family in writing of the importance of participating with the referral and with the service plan for the well-being of the child and the consequence of not participating in the service plan.

e) Upon failure of the family to cooperate with the referral or with the service plan, the family will be placed under a Protective Payee with the community social service agency acting as the payee for the family's APBE grant. The provisions of 89 Ill. Adm. Code 117.10 shall otherwise apply.

f) Upon cooperation for at least three consecutive months, the Protective Payee plan will be discontinued.

(Source: Amended at 19 Ill. Reg. 63, effective JAN 1 1995)

DEPARTMENT OF PUBLIC AID  
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reports require that such reports be filed within 150 days after the close of the provider's fiscal year. These changes in Medicare policies have been made to ensure that providers have an adequate amount of time to file complete and accurate reports. The amendments to the Department's administrative rule affecting hospital cost reporting reflect the Medicare policies. Hospitals will be required to file Medicaid cost reports within 150 days after the close of the provider's fiscal year, rather than the current 90 days. Other changes eliminate the granting of due date extensions by the Department, since the period for submitting Medicaid cost reports is being considerably lengthened.

These amendments are not expected to result in any budgetary changes.

16) Information and questions regarding these adopted amendments shall be directed to:

Joanne Jones  
 Bureau of Rules and Regulations  
 Illinois Department of Public Aid  
 100 South Grand Avenue East, Third Floor  
 Springfield, IL 62762  
 (217) 524-3215

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF PUBLIC AID  
 NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Section Numbers: Adopted Action:  
148.210 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Rulemaking: December 29, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: December 29, 1995
- 9) Notice of Proposal Published in Illinois Register: September 22, 1995 (19 Ill. Reg. 13199)
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version: The following changes have been made in the proposed amendments.  
Technical changes have been made in the main source note following the initial section outline.  
In subsection (a), "within 150 days of" has been changed to "within 150 days after".  
In subsection (d), the comma after "Medicaid cost report" has been stricken.  
No other changes have been made in the text of the proposed amendments.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: The Department follows federal Medicare policies regarding the filing of hospital cost reports. Recent changes in federal regulations (42 CFR 413) pertaining to Medicare cost

## DEPARTMENT OF PUBLIC AID

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TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER d: MEDICAL PROGRAMS

PART 148  
HOSPITAL SERVICES

Section	
148.10	Hospital Services
148.20	Participation
148.25	Definitions and Applicability
148.30	General Requirements
148.40	Special Requirements
148.50	Covered Hospital Services
148.60	Services Not Covered as Hospital Services
148.70	Limitation On Hospital Services
148.80	Organ Transplants Services Covered Under Medicaid (Repealed)
148.82	Organ Transplant Services
148.90	Heart Transplants (Repealed)
148.100	Liver Transplants (Repealed)
148.110	Bone Marrow Transplants (Repealed)
148.120	Disproportionate Share Hospital (DSH) Adjustments
148.130	Outlier Adjustments for Exceptionally Costly Stays
148.140	Hospital Outpatient and Clinic Services
148.150	Public Law 103-66 Requirements
148.160	Payment Methodology for County-Owned Hospitals in a County with a Population of Over Three Million
148.170	Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act
148.175	Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act
148.180	Payment for Pre-operative Days, Patient Specific Orders, and Services Which Can Be Performed in an Outpatient Setting
148.190	Copayments
148.200	Alternate Reimbursement Systems
148.210	Filing Cost Reports
148.220	Pre September 1, 1991 Admissions
148.230	Admissions Occurring on or after September 1, 1991
148.240	Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements
148.250	Determination of Alternate Payment Rates to Certain Exempt Hospitals
148.260	Calculation and Definitions of Inpatient Per Diem Rates
148.270	Determination of Alternate Cost Per Diem Rates for All Hospitals; Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals
148.280	Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements
148.290	Adjustments and Reductions to Total Payments

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

148.295	Critical Hospital Adjustment Payment (CHAP)
148.300	Payment
148.310	Review Procedure
148.320	Alternatives
148.330	Exemptions
148.340	Subacute Alcoholism and Substance Abuse Treatment Services
148.350	Definitions
148.360	Types of Subacute Alcoholism and Substance Abuse Treatment Services
148.368	Volume Adjustment (Repealed)
148.370	Payment for Subacute Alcoholism and Substance Abuse Treatment Services
148.380	Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services
148.390	Hearings
148.400	Special Hospital Reporting Requirements

AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. III] and implementing and authorized by Articles III, IV, V, VI, and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective



## DEPARTMENT OF PUBLIC AID

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January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 19 Ill. Reg. 872, effective DEC 29 1995.

## Section 148.210 Filing Cost Reports

- a) All hospitals in Illinois, those hospitals in contiguous states providing 100 or more inpatient days of care to Illinois program participants, and all hospitals located in states contiguous to Illinois that elect to be reimbursed under the methodology described in 89 Ill. Adm. Code 149 (the DRG Prospective Payment System), shall be required to file Medicaid cost reports within 150 99 days after of the close of that provider's fiscal year and submit a copy of the filed Medicare report.
- b) No extension of the due date will be granted by the Department the Department may grant a 30-day extension--of--the--due--date--for--good cause.
- c) The assessment or license fees described in 89 Ill. Adm. Code 140.80, 140.82, 140.84, 140.94 and 140.95 may not be reported as allowable Medicaid costs on the Medicaid cost report.
- d) A For--a hospital that is electing to participate in the Illinois Medicaid Program and has not previously filed a Medicaid cost report before--the--hospital must submit the two most recently audited Medicare cost reports at the time of enrollment.

(Source: Amended at 19 Ill. Reg. DEC 29 1995), effective DEC 29 1995)

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## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Related Program Provisions
- 2) Code Citation: 89 Ill. Adm. Code 117
- 3) Section Numbers: Adopted Action:  
117.10 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and P.A. 89-6.
- 5) Effective Date of Amendments: January 1, 1996
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: January 1, 1996
- 9) Notice of Proposal Published in Illinois Register: July 7, 1995 (19 Ill. Reg. 8942)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version: The following changes were made in the text of the proposed amendments:
1. In the ILCS cite in Section 117.10(b)(3)(C), "8A" was changed to "VIII".
  2. In Section 117.10(b)(3)(D), "management" was stricken and replaced by "mismanagement".
  3. In Section 117.10(c), the final period was placed inside the closing parenthesis.
  4. In Section 117.10(d), "for the protective payee duties" was inserted after "compensation".
  5. In Section 117.10(e), ", with the exception of private welfare and social service agencies," was inserted after "service to the client" and "designated a protective payee" was changed to "designated as protective payee".
- No other changes have been made in the text of the proposed amendments.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these Amendments replace Emergency Amendments currently in effect?  
No
- 14) Are there any Amendments pending on this Part? Yes

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Sections      Proposed Action      Illinois Register Citation

117.15      Amendment      October 6, 1995 (19 Ill. Reg. 13816)

15) Summary and Purpose of Amendments: Due to recent legislative changes contained in Public Act 89-6 and the Department's commitment to reduce a family's potential need for long-term dependency, the Department is implementing policy and procedures designed to improve children's attendance in elementary school. The goal is to help students establish consistent patterns of school attendance and prevent future truancy. The School Attendance Initiative links the Department, elementary schools and established community agencies to help remove barriers that prevent children from regularly attending school.

Starting with the 1995-1996 school year, participating elementary schools will identify and work with AFDC children and their families who have demonstrated a problem with absenteeism. School personnel will identify children, in grades one through six, who are not attending school regularly. The school will be responsible for defining irregular school attendance. For example, irregular school attendance may be defined as:

1. a combination of five absences, tardiness or early departures within a 30 day period,
2. a pattern of absence, tardiness or early departures, such as absence every Friday within a 30 day period, or
3. a pattern of all children in the family being absent on the same day.

These amendments establish that the individual receiving assistance will be designated as the payee except when the health and well-being of a child in the assistance unit is at risk, as indicated by lack of regular school attendance, as defined by the school. AFDC families whose children do not attend school regularly will be referred for appropriate social services. For families who do not cooperate, the AFDC check will be sent to the social service agency. If attendance does not improve after three months, the adult portion of the grant will be sanctioned. The sanction will not be implemented until approval is received on the Department's waiver request.

This rulemaking also clarifies that the protective payee plan notice informs the client of the right to appeal inclusion in a protective payment plan. Related amendments are being adopted in 89 Ill. Adm. Code 170.

16) Information and questions regarding these Adopted Amendments shall be directed to:

Name: Judy Umunna  
Address: Bureau of Rules and Regulations

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

Illinois Department of Public Aid  
100 South Grand Avenue East, Third Floor  
Springfield, Illinois 62762  
Telephone: (217) 524-3215

The full text of the Adopted Amendments begins on the next page:

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February 28, 1994; amended at 18 Ill. Reg. 7403, effective April 29, 1994; amended at 19 Ill. Reg. 1103, effective January 26, 1995; amended at 19 Ill. Reg. 10702, effective July 7, 1995; emergency amendment at 19 Ill. Reg. 15267, effective November 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 377, effective JAN 1 1996.

Section 117.10 Payee For Financial Assistance

- a) The assistance grant shall be paid to an individual designated as the payee.
- b) The individual receiving assistance shall be designated as the payee with the following exceptions:
- 1) When a client has a judicially appointed conservator or guardian, payment shall be made to the conservator or guardian unless other arrangements are made with the Department by the conservator or guardian.
  - 2) In a situation where no specified relative is available to act as payee, another person may act as Temporary Grantee for a period not to exceed 90 days.
  - 3) A protective payment plan (PPP) is initiated by the Department when a client has demonstrated mismanagement of funds to the detriment of the welfare of the client or family. Examples include but are not limited to:
    - A) A client defaults on an agreement made with a utility company and the Department in the client's behalf. In this instance, when the protective payee receives the assistance payment, payment on current and back utility charges only shall be paid by the payee; the balance of the payment shall be forwarded to the client each month.
    - B) For AFDC only - When a child in the assistance unit is determined to be neglected by the Department of Children and Family Services under Section 3 of the Abused and Neglected Child Reporting Act (431--Rev--Stat--1993--ch--237--par--2953) [325 ILCS 5/3] and 89 Ill. Adm. Code 300. Appendix B.
    - C) For AFDC only - The case involves a record establishing that a parent or relative has been found guilty of public assistance fraud under Article VIII A of the Illinois Public Aid Code (431--Rev--Stat--1993--ch--237--par--6A--1--et--seq) [305 ILCS 5/Art. VIII 8A].
    - D) Nonpayment of rent for two months shall be considered as evidence of grant mismanagement.
    - E) Substance abuse by the caretaker relative is identified and another family member or friend is ensuring that the family's needs are being met.
    - F) For AFDC only - the health and well-being of a child in the assistance unit is at risk, as indicated by lack of regular school attendance, as defined by the school.
- c) Notice shall be sent to the client before a protective payment plan is

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TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 117  
RELATED PROGRAM PROVISIONS

- Section 117.1 Incorporation By Reference
- 117.10 Payee For Financial Assistance
- 117.15 Reinstatement Upon Agreement to Cooperate
- 117.20 Replacement of Missing Warrants
- 117.30 Withholding of Rent (Repealed)
- 117.40 Recovery of Interim Assistance - Aid to the Aged, Blind or Disabled and General Assistance
- 117.50 Funerals and Burials
- 117.51 Funeral Home Services
- 117.52 Burial Expenses
- 117.53 Payment to Vendor(s)
- 117.54 Claims for Reimbursement
- 117.55 Submittal of Claims
- 117.60 Substitute Parental Care/Supplemental Child Care - AFDC, AABD and GA Family Cases
- 117.70 Charge for Replacement of Photo ID Cards (Repealed)
- 117.80 Direct Deposit of Recipients' Warrants
- 117.90 State Income Tax Match

AUTHORITY: Implementing Articles III, IV and VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV and VI, and 12-13].

SOURCE: Filed and effective December 30, 1977; amended at 2 Ill. Reg. 31, p. 68, effective August 3, 1978; amended at 3 Ill. Reg. 38, p. 258, effective September 20, 1979; amended at 3 Ill. Reg. 41, p. 167, effective October 1, 1979; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 16111, effective November 22, 1983; amended at 9 Ill. Reg. 3726, effective March 13, 1985; amended at 9 Ill. Reg. 4526, effective March 20, 1985; amended at 9 Ill. Reg. 8733, effective May 29, 1985; amended at 9 Ill. Reg. 10779, effective July 5, 1985; amended at 9 Ill. Reg. 16914, effective October 16, 1985; amended at 11 Ill. Reg. 4759, effective March 13, 1987; amended at 12 Ill. Reg. 2985, effective January 13, 1988; amended at 12 Ill. Reg. 13608, effective August 15, 1988; amended at 12 Ill. Reg. 14296, effective August 30, 1988; amended at 13 Ill. Reg. 3936, effective March 10, 1989; amended at 14 Ill. Reg. 780, effective January 1, 1990; amended at 14 Ill. Reg. 9488, effective June 1, 1990; amended at 15 Ill. Reg. 13533, effective August 1, 1991; amended at 16 Ill. Reg. 16644, effective October 23, 1992; emergency amendment at 17 Ill. Reg. 2368, effective February 8, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 8191, effective May 24, 1993; amended at 18 Ill. Reg. 3746, effective



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- initiated. The notice shall inform the client of the right to appeal inclusion in a protective payment plan. (See 89 Ill. Adm. Code 104.)
- d) The protective payee shall not receive compensation for the protective payee duties and must agree to assume responsibility for the expenditure of the assistance payment in behalf of the client.
- e) The client's landlord or a vendor of goods or services to the client, with the exception of private welfare and social service agencies, shall not be designated as a protective payee.
- f) The Department may designate private welfare or social service agencies to serve as protective payees.
- g) When no other suitable payee is available, the Department may appoint a member of its staff to act as protective payee. However, the staff acting as protective payee may not be:
- 1) a person determining the client's eligibility or level of assistance;
  - 2) a person handling fiscal processing relating to the recipient;
  - 3) investigative staff; or
  - 4) a local office administrator.
- h) The need for continuation of a protective payment plan and the performance of the protective payee shall be reviewed and evaluated by the Department as often as circumstances indicate, or, for AFDC cases at least every 12 months.

(Source: Amended at 20 Ill. Reg. 877; effective JAN 1 1996)

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- 1) Heading of the Part: Rights and Responsibilities
- 2) Code Citation: 89 Ill. Adm. Code 102
- 3) Section Numbers: Adopted Action:  
102.21 New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and P. L. 103-31.
- 5) Effective Date of Amendments: December 29, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: December 29, 1995
- 9) Notice of Proposal Published in Illinois Register: August 25, 1995 (19 Ill. Reg. 12227)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version: The following change was made in the text of the proposed amendments: In Section 102.21(b), "or other face-to-face redetermination" was added after "Food Stamp benefits."
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these Amendments replace Emergency Amendments currently in effect?  
Yes
- 14) Are there any Amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Pursuant to provisions of Public Law 103-31, these amendments are necessary to implement procedures for voter registration. The National Voter Registration Act of 1993 requires the Department to make it easier for individuals to register to vote. Assistance must be provided in completing voter registration forms and in transmitting those completed forms to the appropriate election official. As a result of these amendments, the opportunity to register to vote will be given at each application for assistance and at each recertification of Food Stamp benefits. The opportunity to register to vote will be made to all clients, age 18 and over, who have signed the assistance application and who are present at the eligibility interview.

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Department staff will not:

1. seek to influence an applicant's political preference or party registration;
2. display any political preference or party allegiance;
3. make any statement or take any action to discourage an applicant from registering to vote; or
4. make any statement or take any action to lead an applicant to believe that a decision to register or not to register to vote will affect the availability of assistance.

This rulemaking establishes that Department staff will collect completed voter registration forms and forward the forms to the State election official no later than 10 days after the date of acceptance. In addition, the Department will keep confidential records of the number of persons choosing to complete a voter registration form and report those numbers to the State Board of Election.

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Name: Judy Umunna  
Address: Bureau of Rules and Regulations  
Illinois Department of Public Aid  
100 South Grand Avenue East, Third Floor  
Springfield, Illinois 62762  
Telephone: (217) 524-3215

The full text of the Adopted Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER a: GENERAL PROVISIONS

## PART 102

## RIGHTS AND RESPONSIBILITIES

Section	
102.1	Incorporation By Reference
102.10	Rights of Clients
102.20	Nondiscrimination
102.21	Voter Registration
102.25	Grievance Rights of Clients
102.30	Confidentiality of Case Information
102.35	Case Records
102.40	Freedom of Choice
102.50	Reporting Change of Circumstances
102.60	Referral Requirements
102.63	Reporting Child Abuse/Neglect
102.66	Suitability of Home
102.70	Notice to Client
102.80	Right to Appeal
102.81	Continuation of Assistance Pending Appeal
102.82	Time Limit for Filing an Appeal
102.83	Examining Department Records
102.84	Child Care
102.90	Voluntary Repayment of Assistance
102.100	Excess Assistance (Recodified)
102.110	Recoupment of Overpayments (Recodified)
102.120	Correction of Underpayments
102.200	Recovery of Assistance
102.210	Estate Claims
102.220	Real Property Liens
102.230	Filing and Renewal of Liens
102.235	Liens on Property of Institutionalized Recipients
102.240	Foreclosure of Liens
102.250	Release of Liens
102.260	Personal Injury Claims
102.270	Convictions of Fraud - Eligibility
102.280	Single Conviction of Fraud - Administrative Review Board

AUTHORITY: Implementing Article XI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. XI and 12-13].

SOURCE: Filed and effective December 31, 1977; peremptory rule at 2 Ill. Reg. 52, p. 449, effective December 13, 1978, amended at 2 Ill. Reg. 52, p. 462, December 23, 1978; peremptory amendment at 3 Ill. Reg. 11, p. 39, effective March 1, 1979; amended at 3 Ill. Reg. 41, p. 167, effective October 1, 1979;

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amended at 3 Ill. Reg. 43, p. 196, effective October 15, 1979; amended at 5 Ill. Reg. 8035, effective July 27, 1981; amended at 5 Ill. Reg. 10775, effective October 1, 1981; amended at 6 Ill. Reg. 894, effective January 7, 1982; codified at 7 Ill. Reg. 5706; amended at 7 Ill. Reg. 8350, effective July 1, 1983; amended at 8 Ill. Reg. 18910, effective September 26, 1984; amended at 9 Ill. Reg. 327, effective December 31, 1984; amended at 9 Ill. Reg. 3730, effective March 13, 1985; amended at 9 Ill. Reg. 6812, effective April 26, 1985; amended at 9 Ill. Reg. 7162, effective May 1, 1985; amended at 9 Ill. Reg. 13091, effective August 16, 1985; amended at 9 Ill. Reg. 14704, effective September 13, 1985; amended at 9 Ill. Reg. 15912, effective October 4, 1985; amended at 10 Ill. Reg. 3981, effective February 22, 1986; amended at 10 Ill. Reg. 14795, effective August 29, 1986; amended at 10 Ill. Reg. 19088, effective October 24, 1986; Sections 102.100 and 102.110 recodified to 89 Ill. Adm. Code Reg. 14795, effective August 29, 1986; amended at 11 Ill. Reg. 14067, effective August 10, 1987; amended at 11 Ill. Reg. 18239, effective October 30, 1987; amended at 12 Ill. Reg. 3735, effective February 5, 1988; amended at 13 Ill. Reg. 3940, effective March 10, 1989; amended at 14 Ill. Reg. 13279, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 20078, effective December 3, 1990, for a maximum of 150 days; amended at 15 Ill. Reg. 7202, effective April 30, 1991; amended at 18 Ill. Reg. 273, effective December 28, 1993; amended at 18 Ill. Reg. 8938, effective June 3, 1994; amended at 19 Ill. Reg. 1108, effective January 26, 1995; emergency amendment at 19 Ill. Reg. 12320, effective August 14, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 88, effective DEC 29 1995.

## Section 102.21 Voter Registration

- a) As mandated by the National Voter Registration Act of 1993, Public Law 103-31, Department staff are required to allow clients the opportunity to register to vote and to assist clients in completing voter registration forms. The opportunity to register to vote shall be for federal elections only.
- b) An application for assistance is a signed request for AFDC, Food Stamps or Medicaid benefits. The opportunity to register to vote shall be given at each application for assistance and at each recertification of Food Stamp benefits or other face-to-face redetermination.
- c) The opportunity to register to vote shall be made to all clients, age 18 and over, who have signed the application for AFDC, Food Stamps, Transitional Assistance, Child and Family Assistance or Medicaid benefits and who are present at the eligibility interview.
- d) The Department shall allow each member of the household over the age of 18 years who must sign the application for public assistance and is present for the eligibility interview the opportunity to register to vote. They may decline.
- e) Department staff shall provide the same degree of assistance to each applicant in completing the voter registration form as provided by the Agency with regard to the completion of its own forms, unless the

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applicant refuses such assistance.

Department staff shall not:

- f) 1) seek to influence an applicant's political preference or party registration;
- 2) display any political preference or party allegiance;
- 3) make any statement or take any action to discourage an applicant from registering to vote; or
- 4) make any statement or take any action to lead an applicant to believe that a decision to register or not to register will affect the availability of assistance.
- g) Department staff shall collect completed voter registration forms and forward the forms to the State election official no later than 10 days after the date of acceptance. Any voter registration form accepted by the Department within five days before the last day of registration for an election shall be transmitted no later than five days after the date of acceptance.
- h) The Department shall keep confidential records of the number of persons choosing to complete a voter registration form. The Department shall report those numbers to the State Board of Elections.

(Source: Added at 20 Ill. Reg. DEC 29 1995, effective DEC 29 1995.)



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1) Heading of the Part: Practice and Procedure for Hearings Before the Illinois Department of Revenue

2) Code Citation: 86 Ill. Adm. Code 200

3) Section Numbers:

200.101 Amendment  
200.105 Amendment  
200.107 New Section  
200.110 Amendment  
200.115 Amendment  
200.120 Amendment  
200.125 Amendment  
200.130 Amendment  
200.135 Amendment  
200.137 New Section  
200.140 Amendment  
200.145 Amendment  
200.155 Amendment  
200.160 Amendment  
200.162 New Section  
200.165 Amendment  
200.170 Amendment  
200.175 Amendment  
200.185 New Section  
200.190 New Section  
200.195 New Section  
200.200 New Section  
200.210 New Section  
200.215 New Section  
200.220 New Section  
200.225 New Section

4) Statutory Authority: 20 ILCS 39b19

5) Effective Date of Amendment(s): January 1, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: December 28, 1995

9) Notice of Proposal Published in Illinois Register: May 26, 1995, 19 Ill. Reg. 7143

10) Has JCER issued a Statement of Objections to these Amendments? No

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11) Differences between proposal and final version:

1. In line 14, added "Compliance With Discovery" after "Remedies".
2. In line 94, changed "200.185" to "200.210".
3. In line 101, struck "hearings" and added "hearing".
4. In line 131, added after the period: "Pre-trial proceedings", as used in this Part, do not include status calls or conferences held as part of the informal review process as set forth in Section 200.135 of this Part."
5. In line 215, changed the period to a semicolon.
6. In line 310, after "Admissions" added "1".
7. In line 323, deleted "1" and reinstated "A".
8. In line 336, deleted "2" and reinstated "B".
9. In line 352, deleted "3" and reinstated "2".
10. In line 374, changed "their" to "its".
11. In line 421, added "commencement of" before "the formal".
12. In line 422, deleted "is commenced, wherein" and added "in which".
13. In line 423, added "to" before "proceed pro se".
14. In line 439, after the period, added "Administrative Law Judges, regardless of whether they are assigned to a particular case, shall in no instance be designated as an informal reviewer under this Section."
15. In line 450, added comma after "recommend".
16. In lines 452, 455 and 464, deleted parentheses.
17. In line 454, deleted "or" after semicolon.
18. In line 459, changed "based," to "based; or".
19. In line 460, deleted "issue or".
20. In line 462, changed "conclusively" to "conclusively".

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21. In line 478, after "disposition of the offer," added "Nothing contained herein shall be construed to preclude the taxpayer or his/her representative from directly discussing the offer of settlement with the assigned litigator or litigation supervisor during the Informal Review period."
22. In line 484, omitted "as" after "those".
23. In line 485, changed "part" to "Part".
24. In line 488, omitted "herein," and added "of this Part".
25. In line 489, added "The reviewer (or litigator in situations in which a settlement offer has been made) for any particular case, within 90 days after the commencement of the informal review process, shall make a written recommendation to the Director, or his designee, that the matter be returned to the hearing calendar, settled or otherwise disposed of according to the provisions of this Part. The time limitation herein set forth shall be extended an additional 90 days upon application by any party, to the presiding Administrative Law Judge, that such additional time is necessary to make an informed decision. Thereafter, extensions of the informal review period shall be made only upon application to the presiding Administrative Law Judge and a showing that the Department has failed to fulfill its responsibilities to make a decision in response to a taxpayer's application for informal review."
26. In lines 497 and 510, deleted comma.
27. In line 531, changed "same" to "they".
28. In line 563, deleted "to" before "set".
29. In line 584, struck the comma and added "and".
30. In line 591, struck "set" and added "setting".
31. In line 634, deleted comma after "litigator".
32. In lines 647-648, deleted "S.Ct. Rule 237" and struck parentheses.
33. In line 659, reinstated the second "to".
34. In line 678, struck the comma.
35. In line 697, struck "nor" and added "or".
36. In line 698, struck the comma after "thereof", struck "or" and added

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- "nor", and struck the comma after "hearing".
37. In line 752, deleted the comma.
38. In line 774 changed the comma to a semicolon.
39. In line 796, struck the comma, added a comma after "and", and changed "where" to "when".
40. In lines 800 and 810, changed "said" to "the".
41. In lines 816-817, added "by written order" before "of", added a period after "Judge", and deleted "by written order".
42. In line 818, omitted "having been".
43. In line 830, changed "where" to "in which".
44. In lines 836-837, added ", without limitation," after "represent" and changed ", without limitation which" to "that".
45. In line 842, changed "wherein" to "in which".
46. In line 865, changed "therefrom" to "from those facts".
47. In line 875, struck "thereby" and deleted the comma after "counsel".
48. In line 891, changed "where" to "in which" and changed "assessment which" to "assessment that".
49. In line 901, struck the comma and added "the" after "and which".
50. In line 903, deleted the comma after "records".
51. In line 933, deleted "may" and reinstated "shall".
52. In line 946, changed "and" to "or".
53. In line 956, changed "where" to "in which".
54. In line 966, changed "as practiced in this State, which" to "that".
55. In line 970, deleted the comma.
56. In line 979, deleted the comma.
57. In line 1003, deleted the comma.

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The rules have also been updated and expanded to fully describe the various procedural and substantive requirements of the Administrative Hearings process.

16) Information and questions regarding this adopted amendment shall be directed to:

Richard L. Ryan  
Chief Administrative Law Judge  
Illinois Department of Revenue  
Administrative Hearings Division  
James R. Thompson Center  
100 W. Randolph Street, Level 7  
Chicago, Illinois 60601  
Phone (312) 814-3070

The full text of the Adopted Amendment begins on the next page:

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- 58. In line 1006, changed "one" to "another representative party".
- 59. In line 1096, changed "itself" to "themselves".
- 60. In line 1140, changed "this agency" to "the Department".
- 61. In line 1152, deleted "Such".
- 62. In line 1153, capitalized "decisions" and deleted "as are".
- 63. In line 1154, changed the comma after "address" to "and".
- 64. In lines 1161-1162, deleted ", in response thereto,".
- 65. In line 1166, changed "a) and b)" to "(a) and (b)".
- 66. In line 1167, changed "such" to "them".
- 67. In line 1169, changed "i)" to "1)" and changed the colon to a period.
- 68. In line 1171, changed "is" to "shall be".
- 69. In line 1174, changed "ii)" to "2)" and changed the colon to a period.
- 70. In line 1176, changed "\$50.00" to "\$25.00".
- 71. In line 1180, changed "iii)" to "3)".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment(s): This rulemaking amends the Department's hearing rules in a number of respects. The rulemaking updates the Department's hearing rules to reflect recent changes in the Department's structure with respect to the Administrative Hearing Process. Effective December 1, 1994, the Department's Administrative Law Judges report to the Chief Administrative Law Judge who reports directly to the Director of the Department. Decisions of Administrative Law Judges will be submitted by the Chief Administrative Law Judge to the Director for review and approval. The Litigators report to the General Counsel. As a result of this structural change the litigation and adjudication functions of the administrative hearings process will be organizationally separate within the Department of Revenue.



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## TITLE 86: REVENUE

## CHAPTER 1: DEPARTMENT OF REVENUE

## PART 200

PRACTICE AND PROCEDURE FOR HEARINGS BEFORE  
THE ILLINOIS DEPARTMENT OF REVENUE

## Section

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200.215	Ex Parte Communications
200.220	Equal Application of Regulations
200.225	Inspection And Publication of <u>Hearing Decisions</u>

AUTHORITY: Implementing Sections 8, 9, 10 and 12 of the Retailers' Occupation Tax Act [35 ILCS 120/8, 9, 10 and 12] and Sections 908, 909, 910, 914, 915, 916 and 918 of the Illinois Income Tax Act [35 ILCS 5/908, 909, 910, 914, 915, 916 and 918] and Sections 17, 18, 19, 21 and 25 of the Cigarette Use Tax Act [35 ILCS 135/16, 17, 18, 21 and 25] and Sections 7, 8, 9a, 9b, 10 and 10a of the Cigarette Tax Act [35 ILCS 130/7, 8, 9a, 9b, 10 and 10a] and Sections 8-5, 8-6, 8-7 and 8-8 of the Liquor Control Act of 1934 [235 ILCS 5/8-5, 8-6, 8-7 and 8-8] and authorized by Section 12 of the Retailers' Occupation Tax Act [35 ILCS 120/12] and Section 1401 of the Illinois Income Tax Act [5 ILCS 5/1401] and Section 21 of the Cigarette Use Tax Act [35 ILCS 135/21] and Section 8 of the Cigarette Tax Act [35 ILCS 130/8] and Section 8-13 of the Liquor Control Act of 1934 [235 ILCS 5/8-13] and Section 39b20.1 of the Civil Administrative Code [20

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ILCS 2502/39b20.1].

SOURCE: Retailers' Occupation Tax Hearings adopted December 23, 1937; amended at 6 Ill. Reg. 2856, effective March 3, 1982; codified at 6 Ill. Reg. 15224; Part repealed, new Part adopted at 13 Ill. Reg. 6789, effective April 12, 1989; amended at 15 Ill. Reg. 3518, effective February 21, 1991; amended at 20 Ill. Reg. 988 effective JAN 1 1996.

## Section 200.101 Scope and Construction

- a) Scope. This Part governs the practice and procedure in all contested cases in the Office of Administrative Hearings Hearing-Sections of the Rega---Services---Bureau---of---the Illinois Department of Revenue (Department), including but not limited to statutory references cited in the authority note.
- b) General. In the course of administering and enforcing the provisions of the Illinois Tax Laws, the Director of Revenue on behalf of the Department, or any other Department officer or employee authorized and designated in writing by the Director to act in his stead, may conduct investigations and hold hearings on matters covered by such laws and, in connection therewith, may examine books, papers, records or memoranda, may require the attendance of any person or of any officer or employee of such person, may take testimony and require the furnishing of evidence and information. A designated Administrative Law Judge who-is-empowered-under-this-Section-to-administer-oaths shall preside over the hearing (including any rehearings).

(Source: Amended at 20 Ill. Reg. JAN 1 1996) effective

## Section 200.105 Definitions

The following meanings are to be given the terms used in this Part:

Administrative Law Judge. An attorney admitted to practice law by, and in good standing before the Illinois Supreme Court who-is-an employee-of-the-Illinois-Department-of-Revenue-and who is duly authorized and designated in writing by the Director of the Illinois Department of Revenue to convene and conduct hearings on matters under the jurisdiction of the Department. An Administrative Law Judge is specifically empowered to administer oaths and affirmations; rule on matters of proof and evidence; regulate the schedule and course of the hearing and pre-hearing process; hear and dispose of procedural and other similar matters; sign and issue orders and subpoenas; and exercise any other powers relating to the proceeding which are legally proper and reasonably necessary to carry out the responsibilities of his or her appointment. The term "Administrative Law Judge" includes the term "Hearing Officer" in all instances in which that term appears

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in regulations promulgated by the Department of Revenue. The authority of any person to act as an Administrative Law Judge shall not be a matter of proof in any hearing before the Department unless an appropriate motion is made pursuant to Section 200.210 of this Part.

Litigator. A Special Assistant Attorney General, employed in the Department's Office of Legal Services, Staff-Attorney, an-attorney admitted to practice law by and in good standing before the Illinois Supreme Court, who is duly authorized and designated in writing by the Director of the Illinois Department of Revenue to present the Department's case and otherwise represent the Department's interest in hearing hearings, status and pre-trial prehearing conferences on all matters covered by the relevant tax act.

(Source: Amended at 20 Ill. Reg. 888, effective JAN 1 1986)

## Section 200.107 Hearing Offices

Hearing offices for the Department are located at the James R. Thompson Center, 100 West Randolph Street, Level 7, Chicago, Illinois, and the Willard Ice Building, 101 West Jefferson Street, Level 5SW, Springfield, Illinois. Office hours, including that of the Administrative Clerk, are from 8:30 a.m. through 5:00 p.m., Monday through Friday, excluding official State holidays.

(Source: Added at 20 Ill. Reg. 888, effective JAN 1 1986)

## Section 200.110 Appearances

a) At hearings or pre-trial matters before the Department, a party to the proceeding may represent himself or he may be represented at the hearing by any person who is admitted to practice as an attorney at law by, and is in good standing before, the Supreme Court of Illinois, or who is permitted by a circuit court granting leave to appear pro hac vice to practice law in a case before the Department in Illinois by rules-of-comity. A corporation may be represented by an officer, or other authorized employee, in any matter hearing wherein the contested tax liability or claim does not exceed \$2,500.00, \$17500 exclusive of penalties and interest.

b) Accountants and others not qualified to practice law in this State may not appear at hearings or pre-trial proceedings in a representative capacity, but such persons may testify at hearings before the Department, and may assist counsel in the preparation of cases for presentation to the Administrative Law Judge at hearings. "Pre-trial proceedings", as used in this Part, do not include status calls or conferences held as part of the informal review process as set forth

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in Section 200.135 of this Part.

c) No person shall be allowed to act appear--in--any--matter in a representative capacity in any matter before the Department, nor shall they be entitled to notice of or other information regarding any action or proceeding before the Department, nor to file any papers, documents, pleadings or motions without first filing with the Office of Administrative Hearings, an-appearance and a Power of Attorney on in a form provided by the Department. Such Power of Attorney as may be filed, shall be effective only for the particular matters having been protested, unless otherwise consolidated with other proceedings by order of the assigned Administrative Law Judge.

Such-appearance--end--Power--of--Attorney--as--may-be-filed--shall-be effective-only-for-the-particular-matters-having-been-protested-unless otherwise-consolidated--with--other--proceedings--by--order--of--the Administrative-Law-Judge.

(Source: Amended at 20 Ill. Reg. 898, effective JAN 1 1986)

## Section 200.115 Notice

a) In the absence of an agreement by the parties as to a time and place for an evidentiary hearing, pre-trial or status a-hearing/prehearing conference, notice of the time and place fixed for any such hearing, pre-trial or status prehearing conference shall be given to the person or persons concerned, or their legal counsel, if appropriate authorization is on file, not less than 14 20 days prior to the day fixed for such proceeding the-hearing--except-that-for-hearings-or prehearing-conferences-set-as-a-result-of-a-continuance--notice--shall be-given-not-less-than-7-days-prior-to-the-day-fixed-for-the-continued hearing--or-prehearing-conference. Personal service of the notice or order, or notice given by United States registered or certified mail, addressed to the person concerned at his last known address, or to his authorized representative, is sufficient. The-time-limitation-for notice--as-affixed-hereinabove--for-general-hearings--shall-not-apply-to revocation-matters--wherein-10-days--shall-constitute--minimum--notice for-hearings--

b) For all motions in accordance with Section 200.185 of this Part, whether for continuance or otherwise, notice of the time and place set for hearing on such motion shall be not less than 2 calendar days, if personally served, or less than 5 calendar days, if by regular United States mail, prior to the time set to be heard on that motion.

c) No person or persons, other than the aggrieved party for whom a protest has been filed, shall be entitled to notice of any proceeding before the Department nor of any action in relation thereto, without first having filed a requisite Power of Attorney with the Office of Administrative Hearings. Persons who have filed such Power of Attorney, as well as the protesting party, shall keep the Office of



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Administrative Hearings apprised of any change in their address which may subsequently occur.

(Source: Amended at 20 Ill. Reg. 330, effective JAN 1 1996)

### Section 200.120 Request For and Setting Hearings of--Hearing; Sufficient Protest

a) No hearing, except as may be provided in Section 200.175(a), or as otherwise granted by the Department, may be initiated without the filing of a timely protest requesting such hearing, by an aggrieved person following the issuance by the Department of a Notice of Deficiency, Tax Liability, Penalty, Liability, Tentative or actual Denial of Claim, an adverse ruling relating to tax exemption status, licensure, or any other contested matter under the jurisdiction of the Department. For all non-income tax matters, no communication with the Department shall be considered a valid protest unless, at the very least, it is timely, in writing, clearly identifies the particular action (assessment, deficiency, denial of claim, etc.) of the Department that is being protested and specifically requests a hearing thereon. Any hearing is to be initiated, with the filing of a protest by the taxpayer or a claimant after issuance by the Department of a notice of deficiency (income tax), notice of tax liability or notice of penalty liability (sales and excise taxes) or a tentative notice of claim denial, or an adverse ruling relating to tax exemption status, licensure or any other contested case under the jurisdiction of the Department.

b) In matters relating to income taxes, protests, in order to be deemed sufficient as a matter of law, must include the following at a minimum:

- 1) Taxpayer's identification, i.e. FEIN, Social Security or IBT number;
- 2) The date of issuance of the Notice of Deficiency or the Notice of Claim Denial which is being contested;
- 3) The taxable year(s) involved;
- 4) To the extent possible, the factual and/or legal grounds upon which the objections to the Notice of Deficiency and/or Notice of Claim Denial are based;
- 5) A certification that the facts stated are true, correct and complete to the best of the affiant's knowledge and belief. Failure to object in the protest to any particular adjustment or issue pertinent to a proposed assessment, or to such an item claimed but denied, shall be deemed a waiver or concession thereof.

c) Protests, upon notice to the Department's representative and by leave of the presiding Administrative Law Judge, may be amended to include additional grounds not previously cited at any time prior to the entry

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of a final pre-trial order which designates the issues to be considered at hearing. In the event that the Department considers a protest to a notice of deficiency or a notice of tentative claim denial relating to income taxes to be insufficient as a basis for a hearing (for rehearing), the taxpayer or claimant, or his representative, shall have 90 days after the mailing of written notice thereof by registered or certified mail to file for to arrange to file if there is adequate reason for any extension; a sufficient protest, in determining whether there is adequate reason for an extension, the Administrative Law Judge shall consider such factors as, but not limited to, the volume of protests filed, the nature and complexity of legal issues raised, the unavailability of a party's legal representative, and the number of previous requests for extension. In the event a sufficient protest is not filed within said 90-day period, a Notice of Decision shall be issued upholding the liability or denial of claim. In order to be deemed a sufficient protest, in addition to referring by date and taxpayer's identification number to the notice of deficiency or tentative notice of claim denial and taxable years involved, the protest must set forth a specific objection to each proposed adjustment item with which the taxpayer disagrees and each item objected to must be supported by a succinct statement of facts relied upon with any supporting schedules, evidence, or information. The taxpayer under the penalty of perjury is required to declare that he has examined the protest and that to his best knowledge and belief the facts stated are true, correct, and complete. However, in lieu of certification by the taxpayer, the taxpayer's representative may so certify if he indicates that he has prepared the statement and other materials.

d) In the event that the Department considers any protest relating to income tax to be insufficient as a basis for hearing (or rehearing), it may file a motion in relation thereto seeking to strike or dismiss the protest or any portion thereof. Likewise, any motion to amend a protest may be opposed by appropriate objection(s) filed as a matter of record and brought before the assigned Administrative Law Judge for consideration.

(Source: Amended at 20 Ill. Reg. 330, effective JAN 1 1996)

### Section 200.125 Discovery

Discovery in matters pending before the Office of Administrative Hearings a Hearing Section of the Illinois Department of Revenue shall be limited to the following, unless otherwise provided by law:

a) No discovery may be initiated by any party until such time as the case upon which the protest is based has been docketed by the Office of Administrative Hearings, given an identifying docket number and a notice of automatic status conference issued. Each different type of



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discovery sought shall be by a separate document, labeled accordingly. All discovery requests shall be served exclusively upon the litigator assigned to the case. Copies of discovery requests or demands shall not be communicated to the presiding Administrative Law Judge except in instances where he or she may be acting in the absence of an assigned litigator or where compliance with discovery is being sought under appropriate motion.

b) Hearings shall not be delayed to permit discovery unless due diligence is shown by the party seeking the discovery.

ca) Production of Documents. Any party may, by written request, direct any other party to produce for inspection, copying, reproduction or photographing any specified documents, or to disclose information calculated to lead to the discovery of the whereabouts of any of these items, whenever the nature, contents, or condition of such documents is relevant to the subject matter and is not privileged. The request shall specify a reasonable time, which shall not be less than 28 days, within which the related actions are to be performed and the place and manner of making the inspection and performing the related acts. The production, inspection, copying or photographing of any departmental records shall be limited to that done on Department premises, unless other arrangements can be made with the consent of both parties. One copy of the request shall be filed with the Administrative Law Judge with the proof of service on all other persons entitled to notice. A person served with a written request for production of documents shall:

- 1) Comply with the request within the time specified, or
- 2) Serve upon the person so requesting, written objections on the grounds ground that the request is improper in whole or in part and state the reasons therefor. Any objection to the request or refusal to respond shall be heard by the Administrative Law Judge upon prompt notice and motion of the party submitting the request in accordance with Section 10-40 of the Illinois Administrative Procedure Act [5 ILCS 100/10-40] (1111-Rev-Stat-19917-CH-1277 par-1010-40).

3) Upon request, furnish an affidavit stating whether the production is complete in accordance with the request.

db) Request for Admissions.

- 1) A party may serve on any other party a written request for the admission by the latter of the truth of any specified relevant fact set forth in the request, and/or for the and-a-written request-for admission of the genuineness of any relevant documents described in the request. Copies of the documents shall be served with the request unless copies have already been furnished. 1) Response-to-Request- Each of the matters concerning admission of fact, or the genuineness of each document for which admission of fact is requested, shall be admitted, unless, within 28 days after service of the request or such additional time as may be granted by the Administrative Law

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Judge, the person to whom the request is directed serves upon the requesting party either:

A) A sworn statement denying specifically the matter on of which admission of fact is requested, or setting forth, in detail, the reason why he cannot truthfully admit or deny those matters. A denial shall fairly meet the substance of the requested admission. If good faith requires that a party qualify his answer or deny only a part of an admission of fact, he shall specify so much of it as is true and deny or qualify the remainder. An answering person may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiries and that the information known or regularly obtainable by him is insufficient to enable him to admit or deny said fact; or

B) A written objection on the grounds ground that some or all of the requested admissions of fact are privileged or irrelevant. A party who considers that a matter-as-to-which an admission has been requested, presents-a-genuine-issue-for-the-hearing-may-not-on-that-ground-alone-object-to-the request. An objection on the grounds of relevance may be noted by any party but it is not to be regarded as just cause for refusal to admit or deny. If written objections to a request are made, the remainder of the request shall be answered within the period designated in the request. A requesting party, upon receipt of any objection, may have such objection(s) heard and determined by the Administrative Law Judge upon prompt notice and motion directed thereto. Any objection-to-a-request-or-to-an-answer-shall-be-heard-by-the-Administrative-Law-Judge-upon-prompt-notice-and-motion-by-the-party-making-the-request.

2) Effect-of-Admission-Any admission made by a party to a request under this rule is for the purpose of the pending action only. It does not constitute an admission by him for any other civil proceeding proceedings and may not be used against him in any other proceeding.

ee) Interrogatories. Any party may serve interrogatories in the same manner and with the same limitations as imposed by Supreme Court Rule. The number of written interrogatories served shall not exceed 40, inclusive of all subsections, except by leave of the presiding Administrative Law Judge upon motion therefor made. Supplemental interrogatories are permissible.

fd) Depositions. Any party may serve notice and take the deposition(s) of another person as may be permitted by Supreme Court Rule.

gl) Expert or Opinion Witnesses. When requested by interrogatories served, all parties are under a duty to disclose the identity of "opinion" witnesses as that term may be defined by Supreme Court Rule, and to further disclose the subject matter of any intended testimony

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of such witness.

(Source: Amended at 20 Ill. Reg. 838, effective  
JAN 1 1996)

## Section 200.130 Remedies/Compliance With Discovery

a) Any party or its counsel, upon failure of the opposing party to answer or appropriately respond to any discovery request, may seek by way of motion addressed to the Administrative Law Judge assigned to the case or another appointed in his/her stead, to compel a response or appropriate answer be given to the request(s) made. In seeking a remedy under this Section, it shall not be required that the provisions of Section 201(k) of the Supreme Court Rules be followed, but only that a reasonable attempt to achieve compliance with the discovery request was made prior to seeking the assistance of the Administrative Law Judge.

b) If a party, officer, director or managing agent of a party fails to ~~admit or deny any fact or admit or deny the genuineness of any document or otherwise fails to comply with a reasonable discovery request after being ordered to do so by the Administrative Law Judge, said presiding officer judge may make such further orders as to the failure as are just, including, but not limited to and among others the following:~~

- 1a) An order that the matters regarding which the order of compliance was made or any other designated facts shall be taken as true and established for the purpose ~~purposes~~ of the case in accordance with the claim of the party obtaining the order;
  - 2b) An order refusing to allow the disobedient party to support or oppose designated defenses, or prohibiting him from introducing designated matters or documents in evidence;
  - 3c) An order staying further proceedings until the order is obeyed or rendering a judgment by default against the disobedient party.
- cd) In ordering sanctions, the Administrative Law Judge shall consider the following factors, including, but not limited to:
- 1) The diligence of the person making the request;
  - 2) The burden of compliance on the party subject to the request;
  - 3) The reasonableness of the failure to comply admit;
  - 4) Circumstances which may prevent compliance.

(Source: Amended at 20 Ill. Reg. 808, effective  
JAN 1 1996)

## Section 200.135 Informal Review

a) The Department may designate an impartial employee, in accordance with the provisions of Section 39b20.1 of the Civil Administrative Code [20

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ILCS 2505/39b20.1], who has authority and knowledge to recommend an appropriate conclusion of the matter involving an assessment or proposed liability prior to hearing, and to review adjustments recommended by examiners and auditors. The informal review process affords non-attorneys, such as certified public accountants and corporate officers, an opportunity to resolve disagreements with the Department after a liability has been proposed or assessed but before commencement of the formal administrative hearing process in which the taxpayer is required to be represented by a licensed attorney or to proceed pro se. The Department shall conduct such a review process only if requested by a the taxpayer or his representative within 30 days after the filing of a timely and sufficient protest. A request for an informal review shall include a list of all supportive documentation to be presented at the review conference.

b) A taxpayer may be represented by any person of his choice a nonattorney during the informal this review process. The taxpayer's chosen representative at this point need not be an attorney. Any Power of Attorney filed by a non-attorney shall be sufficient for participation in the informal review provided by this Section and for no other proceeding or part of a proceeding during any phase in the administrative hearing process.

c) The Department shall designate an employee, other than designated employee-shall-not-be the litigator staff-attorney authorized to represent the Department at the hearing, to conduct the informal review. Administrative Law Judges, regardless of whether they are assigned to a particular case, shall in no instance be designated as an informal reviewer under this Section.

d) The employee designated to conduct the informal review conference shall review the adjustments recommended by the examiner or auditor to determine whether adequate grounds for the assessment of the liability exist given the factual information provided by the taxpayer prior to, and at the time of, the conference, and the applicable statutory and regulatory law for the period of the assessment. As a result of the information provided at such conference, the person designated to conduct the informal review and the taxpayer may mutually agree to refer the case to the Audit Bureau for readjustment to resolve factual issues. At the conclusion of the conference and/or readjustment, the employee may recommend, with regard to all or some of the issues:

- 1) That the issues be resolved in favor of the taxpayer, if it is determined that the law does not adequately support the assessed or proposed liability;
- 2) That the issues be fully resolved by administrative hearing, if it is determined that there are insufficient facts to conclusively determine that the taxpayer has overcome the premises upon which the proposed or assessed liability is based; or
- 3) That the issues be resolved in favor of the taxpayer, having ascertained that the facts presented conclusively overcome the



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a) factual premise upon which the liability is based. A recommendation that the issues be resolved by administrative hearing is not a final decision of the Department within the meaning of Section 10-50 of the Illinois Administrative Procedure Act [5 ILCS 100/10-50] and, therefore, may not be appealed.

f) Documents provided to the employee designated to conduct the informal review process may be made part of the administrative hearing record in the same manner as other items proffered by either party as evidence to be introduced into the record.

g) Offers of settlement must be tendered in accordance with Section 200.137 of this Part, and such offers will not be considered by the employee designated to conduct the informal review conference. Tender of an offer of settlement to the informal reviewer will result in the case being referred to the assigned litigator or to the litigation supervisor for appropriate evaluation and disposition of the offer. Nothing contained herein shall be construed to preclude the taxpayer or his/her representative from directly discussing the offer of settlement with the assigned litigator or litigation supervisor during the Informal Review period. In any instance where an offer of settlement is made during the informal review process, the case shall remain in that status, regardless of the person evaluating the offer, until such time as the Department accepts or rejects the terms of settlement being proposed. However, the time limitations for consideration of any offer within this term shall be the same as those set forth in Section 200.137(f) of this Part.

h) In all cases where a timely request for informal review has been made, the initial automatic status conference which is set under the provisions of Section 200.140 of this Part shall instead serve as the date for the commencement of the informal review conference. The reviewer (or litigator in situations in which a settlement offer has been made) for any particular case, within 90 days after the commencement of the informal review process, shall make a written recommendation to the Director, or his designee, that the matter be returned to the hearing calendar, settled or otherwise disposed of according to the provisions of this Part. The time limitation herein set forth shall be extended an additional 90 days upon application by any party, to the presiding Administrative Law Judge, that such additional time is necessary to make an informed decision. Thereafter, extensions of the informal review period shall be made only upon application to the presiding Administrative Law Judge and a showing that the Department has failed to fulfill its responsibilities to make a decision in response to a taxpayer's application for informal review.

(Source: Amended at 20 Ill. Reg. 33, effective JAN 1 1986)

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a) Once a protest and request for hearing has been filed, all offers made by taxpayers or their duly authorized representatives for the purpose of settling either all or some part of an outstanding dispute regarding any assessed liability, proposed deficiency or claim for credit or refund must be made in the manner and with the information indicated in subsection (e), below. Additional information may be tendered to the extent it may assist the Department in evaluating the proposal.

b) Offers shall be made only to the litigator representing the Department on a specific case. If no litigator is assigned, an offer should be made either to the litigation supervisor of the particular tax section or, if unavailable, to the Chief of Tax Litigation. Settlement proposals made by purported representatives without requisite authority on file (i.e., Power of Attorney and/or Appearance) will be rejected summarily. Offers may be made by non-attorney representatives, provided they conform to the provisions of this subsection (b) and subsections (e)(1) through (e)(7) below.

c) The sole purpose of the format is to allow the Department to analyze the settlement offer and respond to it. Therefore, any statements made by a taxpayer on the settlement form will be considered to be made in the course of good faith negotiations and will not be admissible against the taxpayer in any proceeding.

d) Any offer once received may be accepted, rejected or countered by the Department and the taxpayer or its representative shall be notified of such in writing.

e) The minimum information to be supplied upon a settlement offer shall consist of the following:

- 1) The name, address and telephone number of the person submitting the offer;
  - 2) The complete name, address and identification number (i.e., IBT, FEIN or SS) of the taxpayer(s) for whom the offer is being made;
  - 3) The docket number of the case or cases in the Office of Administrative Hearings to which the offer will pertain;
  - 4) The original amount of the liability/claim and penalty (the latter designated by type) and period involved for each taxpayer within a docketed case;
  - 5) The issue or issues involved and whether they are non-recurring;
  - 6) A statement of whether the taxpayer is currently being audited and, if a corporation, whether its parent or subsidiaries are being audited. If such audit is taking place, the name of the related taxpayer and the status of the audit shall be disclosed;
  - 7) The terms of the settlement offer, including specific proposed net dollar amounts, identification of issues to be conceded by either party and the supporting rationale for acceptance of the settlement.
- f) Settlements offered subsequent to the issuance of a notice or order setting a case for hearing shall not be cause to delay the hearing unless, in the discretion of the Administrative Law Judge and on



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representation of the parties, the offer is likely to finally resolve the controversy at issue. In all other cases, settlement offers which have not been responded to or otherwise resolved within 90 days after being tendered, or within such final extension of time as may thereafter be granted by the presiding Administrative Law Judge, shall cause the case to be restored to the regular hearing calendar.

(Source: Added at 20 Ill. Reg. 608, effective JAN 1 1986)

**Section 200.140 Status and Pre-trial Conferences Prehearing-Conference**

a) As soon as any protested case is docketed with the Office of Administrative Hearings, the Department shall cause a notice to be issued to the taxpayer, or authorized representative, setting the matter for an initial status conference to be held within 45 days thereof before the presiding Administrative Law Judge. The purpose of the automatic status conference shall be, inter alia, to initially determine the respective positions of the parties in reference to the controversy; ascertain the need and scope of discovery, if any; set a tentative discovery cut-off date; and explore the possibility of settlement. There shall be no continuance of an initial status conference. If a conflict in scheduling arises, the parties may arrange to meet with the assigned Administrative Law Judge earlier than the set date or to otherwise confer by teleconference with the participation of the Administrative Law Judge. This Section shall not apply when a case is set for hearing, including notice thereof, to be held within 60 days after being docketed by the Office of Administrative Hearings.

b) In all cases pending before the Office of Administrative Hearings any Hearing-Section of the Department, the Administrative Law Judge may hold a pre-trial prehearing conference. The object of the pre-trial prehearing conference, as distinguished from other stages in the hearing process, is to clarify, isolate and dispose of problems concerning testimony and evidence to be presented at the hearing itself. At the conference, counsel familiar with the case and authorized to act shall appear to consider matters including, but not limited to:

- 1a) simplification of the issues and organizing the hearing;
- 2b) the possibility of obtaining stipulations and admissions of fact and of documents which will avoid unnecessary proof;
- 3c) ascertaining and/or limiting limitation-of the number of witnesses;
- 4d) any other matters which may aid in the disposition and/or facilitation of the case matter; and
- e) set-a-discovery-cut-off-date; and
- 5f) setting set a hearing date.

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c) A pre-trial conference shall be conducted expeditiously by the Administrative Law Judge. Agreements or determinations on the simplification of issues, uncontested facts, admissibility of evidence or other matters pertaining to the conduct and scope of the hearing shall be entered on the record by a written order of the Administrative Law Judge.

dg) When setting matters for hearing, the respective parties shall, to the extent possible, estimate the length of time necessary for the presentation of testimony and submission of evidence as the case may require. Upon such estimate, the Administrative Law Judge shall schedule a hearing of the matter to take place on consecutive working days and proceed in like manner until the hearing is concluded. If, at the expiration of the allotted schedule, further proceedings are still deemed necessary for the purpose of completing the examination of witnesses evidence, and no time is available on an immediately succeeding day, the case shall be set over to and reconvened on the earliest available day(s) for conclusion.

h) A prehearing-conference shall be an informal proceeding--conducted expeditiously--by--the--Administrative--Law--Judge--Agreements--or determinations on the simplification of issues--uncontested--facts--admissibility--of--evidence--or--other--matters--pertaining--to--the--conduct and--scope--of--the--hearing--shall--be--entered--on--the--record--by--a--written order--of--the--Administrative--Law--Judge.

e) Failure to appear. Status and pre-trial conferences are deemed to be a necessary and integral part of the overall hearing process and as important as the hearing itself. The failure to appear at or participate in a status or pre-trial conference for which due notice has been given shall be considered a waiver of any protest filed and shall be cause for termination of the proceedings and immediate disposition of the matter against such party. Any person so affected may seek to vacate the waiver and reopen the proceeding by the filing of a motion, within 30 days after the entry of an order of default, showing good cause why they failed to appear or participate. If no such motion is filed within the time allowed, the disposition of the case shall be considered final.

(Source: Amended at 20 Ill. Reg. 608, effective JAN 1 1986)

**Section 200.145 Attendance of Witnesses**

a) An Administrative Law Judge, at his/her own instance, or on the timely written request of a taxpayer who is a party to the proceedings, or the litigator staff--attorney may issue subpoenas requiring the attendance of witnesses and the giving of testimony and may issue subpoenas duces tecum requiring the production of books, papers, records or memoranda. b) Such subpoena shall be issued and enforced in accordance with the applicable provisions of the Act under which

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the hearing is authorized. However, no subpoena as may be issued pursuant to this rule shall be valid or enforceable without the signature of the presiding Administrative Law Judge and the affixation of the Department's seal.

- b) A taxpayer or his legal representative may require the attendance at hearing of a relevant and necessary witness who is a departmental employee by the timely issuance of a notice to appear in the same manner as provided by Supreme Court Rule 237 (Ill.-Rev.-Stat.-1987 Ch.-110A, par.-237). The Department may also use such notice to require the attendance of a taxpayer or any employee, officer, director or partner thereof.

(Source: Amended at 20 Ill. Reg. 830, effective JAN 1 1996)

## Section 200.150 Stipulations

- a) The parties may be required to stipulate to the fullest extent to which complete or qualified agreement can or fairly should be reached on all matters not privileged which are relevant to the pending case, regardless of whether such matters involve fact or opinion or the application of law or fact. Included in matters which may be required to be stipulated to are all facts, all documents, public records and papers or contents or aspects thereof, and all evidence which is not in dispute. Where the truth or authenticity of facts, records or evidence claimed to be relevant by one party is not disputed, it is not necessary for the parties to stipulate to the materiality or relevance of that evidence, nor to attach those documents or evidence as part of the record. An objection on the ground of materiality or relevance may be noted by any other party but is not to be regarded as just cause for refusal to stipulate. The requirement for stipulation applies under this rule without regard to where the burden of proof may lie with respect to matters involved. Documents or papers or other exhibits annexed to or filed with the stipulation will be considered part of the stipulation.

- b) An executed stipulation prepared pursuant to this rule, and any related exhibits, shall be filed by the parties at the time directed by the Administrative Law Judge, prior to or at the commencement of the hearing. The stipulation shall be in writing and be clear and concise. Separate items shall be stated in separate paragraphs and shall be appropriately lettered or numbered. A stipulation shall be treated, to the extent of its terms, as a conclusive admission by the parties to the facts stipulated. A party will not be permitted to qualify, change or contradict a stipulation in whole or in part, except where the ends of justice so require. A stipulation and admissions of fact therein shall be binding and have effect only in the pending case and not for any other purpose, and cannot be used against any of the persons thereto in any other case or proceeding.

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(Source: Amended at 20 Ill. Reg. 830, effective JAN 1 1996)

## Section 200.155 Evidence and Conduct of Hearings

- a) The procedure at hearings shall be similar to that in court proceedings. The order in which evidence is to be presented shall be determined by the party which, at a given point, must sustain the burden of proof. In accordance with Section 10-40 of the Illinois Administrative Procedure Act, the rules of evidence as used in the civil courts of this State shall govern the conduct of any matter at hearing. However, in the conduct of any matter at hearing, neither the Department nor any officer or employee thereof, nor the taxpayer who is a party to the hearing, shall be bound by the technical rules of evidence in the taking or admission of proofs. Hearsay is not a technical rule of evidence and may not be admitted, except to the extent that it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Evidence shall be admitted in accordance with Section 10-40 of the Illinois Administrative Procedure Act. When a party will not be prejudiced by procedures may be adopted for the submission of all or part of the evidence in written form.
- b) Only evidential and related matters having or possibly having a bearing on the adjustments or issues involved in the case shall be heard and considered. Thus, any presentation or attempted presentation of matters not germane to the adjustments or issues of the case shall be heard only to a limited extent sufficient to enable the Department or court review of the correctness of its exclusion, due to being ruled inadmissible, from the hearing record.
- c) Exhibits which are to be introduced in evidence at a hearing shall be marked for identification in advance of the hearing and before being formally offered in evidence. All exhibits shall be marked using a numerical sequence only. Use of alphabetic or alphanumeric identification is not favored. Group exhibits shall disclose the number of pages within the group.
- d) Records of or kept by the Department of Revenue may be proved in any hearing by a reproduced copy of such record under the Certificate of the Director.
- e) The Administrative Law Judge shall rule on objections as to the admissibility of evidence and on other matters raised for determination at the time they are presented and shall not be deferred to be ruled upon by written recommendation. Evidence excluded by rulings of the Administrative Law Judge shall, nevertheless, be placed in the record so that the question of its admissibility may be passed upon by a reviewing court, provided an offer of proof has been made. In this connection, however, an Administrative Law Judge may require that excluded testimony or other evidence be presented in a condensed form so as to avoid needless repetition and undue length of the



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hearing record.

f) With the exception of Section 200.135(f) of this Part, all evidence in support of any issue, whether in the nature of testimony, documents, or other physical matter, shall be taken in the course of and on the date(s) set for hearing. An Administrative Law Judge shall not accept or consider evidence of any form or nature which is received or submitted outside of or subsequent to the hearing itself, nor permit same under any circumstances, without the express written and recorded agreement of the parties.

g) Briefs and Briefing Schedules. Except upon approval of the presiding Administrative Law Judge, no brief or memorandum submitted in support of or in opposition to any issue, either before, during or after hearing, shall exceed 50 pages in length, double spaced type. No briefing schedule shall extend more than a maximum of 75 days beyond the last day of the hearing. No party shall have the right to file any brief, memorandum, supplementary argument or other matter beyond the date it is due as set by order without first giving notice and obtaining leave of the presiding Administrative Law Judge to do so instantler. No party shall have the right to file any supporting argument not contemplated by order without obtaining leave in the same fashion.

h) Except for the expansion of page limitations, Administrative Law Judges acting in the absence of any assigned Department litigator may not consent to abrogate the requirements of subsections (f) and (g) of this Section.

(Source: Amended at 20 Ill. Reg. 888, effective JAN 1 1996)

## Section 200.160 Continuances

a) There shall be no continuances of any initial status conference as provided by Section 200.140. However, see Section 200.140(a) for available alternatives.

ba) No continuance of a scheduled hearing, status or pre-trial conference date shall be granted by the Administrative Law Judge except for good cause shown. No second or subsequent continuance of any hearing, status or pre-trial conference shall be granted except upon written authorization of one of the following officers-or-employees-of-the Illinois Department-of-Revenue:

- 1) ~~the Manager-of-the-appropriate-Tax-Begai-Division?~~
- 2) ~~the Assistant-Manager-of-the-appropriate-Tax-Begai-Division?~~
- 1) the Chief Administrative Law Judge; or
- 2) designated Supervisory Administrative Law Judges.

3) ~~the Manager-of-the-Hearing-Division?~~

c) In determining whether there is good cause shown for a continuance, the Administrative Law Judge--Manager--or--Assistant-Manager shall consider such factors as: the volume of cases pending protests--fired;

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the nature and complexity of legal issues raised; the diligence of the party making the request; the availability of a party's legal representative or witnesses; and the number of previous requests for continuance. In addition, the Administrative Law Judge may consider the actions or omissions of the taxpayer and/or the taxpayer's representative(s) or of the Department and/or the Department's representative, whether during the audit or during the administrative hearing process, which caused or contributed to unreasonable delay. In no event shall an Administrative Law Judge grant a general continuance. Every continuance shall be to a date and time certain.

db) In a proceeding relating to the revocation or refusal to issue a certificate of registration, permit or license, no continuance at all shall be granted except by one of the Department employees included in the enumeration contained in subsection (b) above ~~of this Section~~.

ec) All requests for continuance shall be in writing and, when made by attorneys, shall be in the form of a motion, stating the exact reasons therefor, and shall be submitted to the Administrative Law Judge and the representative of the non-moving party, staff-attorney if any, for a hearing on the motion ~~representing the Department~~ not later than 48-hours prior to the scheduled hearing or status or pre-trial conference date. Any request for continuance made within the 48 hour period or otherwise not comporting with this Part shall not be considered unless of an emergency nature. The Administrative Law Judge is empowered to require written verification of such emergency as soon thereafter as is practical.

f) No request for continuance may be granted, nor is any grant valid, without notice to all parties and an opportunity to object placed on record at a hearing on the motion. No party shall assume the granting of a continuance for any matter upon submission of the request alone. The disposition of all motions for continuance, whether granted or denied, shall be by written order. Litigators for the Department are not empowered to grant any continuance of nor cancel a set status or pre-trial conference or hearing without approval by written order of the presiding Administrative Law Judge.

g) Motions for continuance received by the Department from a person or persons purporting to represent the protesting party shall not be calendared nor considered unless a valid Power of Attorney pertaining to the proceeding at issue is on file with the Office of Administrative Hearings or otherwise accompanies the motion.

hd) The rescheduling of a case for a further hearing after an actual hearing or partial hearing has been held is regarded as a continuance unless reconvened on the next succeeding business day.

(Source: Amended at 20 Ill. Reg. 880, effective JAN 1 1996)

## Section 200.162 Office Dispositions



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In circumstances in which the hearing process is terminated prior to the convening of a formal hearing due to the voluntary or involuntary resolution of the controversy, the Department may conclude the case by way of office disposition. All office dispositions shall be entered by order of the presiding Administrative Law Judge assigned to the case and shall not be subject to publication which may otherwise be required of hearing recommendations. The following represent, without limitation, fact situations that may warrant the office disposition of a case:

- a) The taxpayer voluntarily, and in writing, withdraws the protest or otherwise consents to a Notice of Tax Liability, Notice of Deficiency, Denial of Claim or other Departmental action;
- b) An informal review has been conducted pursuant to Section 200.135 of this Part in which the employee designated to conduct the review has recommended a full and complete resolution of contested issues;
- c) The litigator has examined all facts and circumstances associated with a particular case and it is the litigator's opinion that the law and/or regulations do not support the action taken or decision made by the Department;
- d) As the result of a reaudit, the taxpayer and the Department reach an agreement as to the appropriate application of the law to the facts.

(Source: Added, JAN 1 1986 20 Ill. Reg. 880, effective

## Section 200.165 Recommendation Decision of the Administrative Law Judge

Upon conclusion of when the hearing is concluded, and the taking of evidence, the Administrative Law Judge shall submit make a recommendation for disposition of the pending dispute reports thereon to the Director, in accordance with the provisions of Sections 10-50 to 10-70 Article-10 of the Illinois Administrative Procedure Act [5 ILCS 100/10-50 to 10-70] (111-Rev-Stat-1991-ch-127-par-1010-5-et-seq.). The Director, or his designee, upon receipt of the recommendation submitted, may accept or reject such recommendation, in whole or part, or remand the matter for additional proceedings. Any final administrative decision issued by the Director, or his designee, shall be made upon the facts of record and all conclusions which may be reasonably derived from those facts. All final administrative decisions which result from hearing recommendations shall be made available for publication as may be provided by law. In all other matters, whether by agreement, withdrawal, cancellation or otherwise, the case shall be closed by order of the Administrative Law Judge terminating the proceedings.

(Source: Amended at 20 Ill. Reg. 2, effective

## Section 200.170 Notice of Final Decision

The Department's final administrative decision shall be served upon on the

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persons affected thereby, or their including legal counsel if appropriate authorization whose appearance is on file, either personally or by United States registered or certified mail, addressed to the person concerned at his or her last known address.

(Source: Amended at 20 Ill. Reg. 1000, effective

## Section 200.175 Rehearings

a) After the issuance of a final assessment or a Notice of Tax Liability which has become final pursuant to Section 4 or Section 5 of the Retailers' Occupation Tax Act [35 ILCS 120/4 or 5] (111-Rev-Stat-1987-ch-120-par-443-and-444) or another Act in which Section 4 or Section 5 is incorporated by reference, the Department, at any time before such assessment is reduced to judgment, may grant a rehearing or grant review and hold an original hearing (in cases of failure to timely protest) upon the application of the person aggrieved. This provision shall not apply in any situation in which an assessment that has become final and unappealable has been paid by or on behalf of the taxpayer in liquidation of that assessment.

b1) To be considered for initial review or rehearing, a taxpayer must submit a written application therefor to the Chief Administrative Law Judge manager-of-the-hearings-section, offering specific and detailed rationale for each basis used to support the request. Where a rehearing is sought following issuance of a final Departmental departmental decision, all errors of fact or law viewed as affecting the validity of that decision must be set forth. If new evidence not previously available and which the taxpayer was not required to maintain or keep as part of its own records is sought to be admitted, explanation of the nature of that evidence and how it affects the decision shall also be included. In any instance where the request for rehearing follows a finding of default, the reason(s) for failure to appear shall be given, accompanied by an affidavit or other required document(s) verifying the statement(s) offered. In determining whether to permit an initial review or rehearing, the Department Administrative-law-judge shall consider such factors as: the offer of proof with respect to matters in controversy; new evidence and the nature and complexity of legal issues raised; the diligence of the person seeking the rehearing; the passage of time between the finalization of the assessment and the request for review. No second or subsequent application for review or rehearing relating to the same operative set of facts shall be considered by the Department.

c2) Following Department evaluation of an application for review or rehearing:-

1A) The applicant taxpayer shall be advised in writing of the decision to either--1) grant or deny the request--or 11) that

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authority may be employed. Such motions may include but are not limited to: summary judgment; dismissal; consolidation; motions in limine; etc.

- b) It shall be the duty and responsibility of the person submitting the motion to bring it before the presiding officer of the case to which it pertains, after proper notice has been served, for hearing and disposition. Any motion filed in any matter before the Department which is not caused to be heard on its merits (unless otherwise extended by written order) within 10 days after service of the motion or notice thereof shall be deemed to have been waived and thereby stricken from the record.
- c) Any motion filed shall be clearly designated as such and shall contain in its caption the name of the case, docket number and type of motion brought. Motions shall bear evidence of a certification of service and notice to the appropriate parties.
- d) The Department is empowered to designate a specific day or days during the work week in which to hear motions that have been filed. The Department may also designate a person or persons to hear and dispose of such motions even though they may not be the Administrative Law Judge(s) before whom a particular case may be pending.
- e) Any party wishing to have a motion heard shall contact the Office of the Administrative Clerk (see Section 200.200) either in person or by telephone to determine available dates and times and have the matter placed upon the regular motion call.

(Source: Added at 20 Ill. Reg. 1020, effective JAN 1 1936)

Section 200.190 Withdrawal of Representation

- a) No representative party, once having filed a Power of Attorney in any matter before the Office of Administrative Hearings of the Department of Revenue, shall be allowed to withdraw from that representation without first having served notice of intent upon all parties to the cause, making the reasons for such withdrawal known of record and securing leave of the presiding officer on the case to so withdraw.
- b) No representative party who is intending to substitute for or replace another representative party who has already filed a Power of Attorney shall have the right to do so unless the provisions of subsection (a) above, have been fulfilled, and any such filing in violation of this Section shall be deemed a nullity.
- c) Once a matter has been set or otherwise noticed for hearing, leave to withdraw or substitute as counsel for a taxpayer may be denied by the presiding Administrative Law Judge if granting such request would act to delay the hearing.

(Source: Added 1 1936 20 Ill. Reg. 888, effective)

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~~such application has been approved.~~

2b) In each instance where an application for review or rehearing is denied, the Department, in its notice thereof, shall set forth the reasons therefor in explanation of the denial.

d3) In any case where the issue to be heard involves one or more assessed liabilities, approval of any application for review or rehearing may ~~shall~~ be conditioned upon the taxpayer's remittance to the Department, within 30 days of issuance of the notice, of a deposit of not more than 25% of the total liability incurred.

e4) In any case where an application for rehearing follows a finding of default in the original proceeding, approval of such application shall be further conditioned upon reimbursement to the Department, within the same 30-day period, of outstanding charges for court reporting services having been incurred for that default.

5) ~~No--second--or--subsequent--application--for--review--or--rehearing relating--to--the--same--operative--set--of--facts--shall--be--considered by--the--Department.~~

f6) If a rehearing (or an original hearing, in the case of failure to timely protest) is held, the recommendation report of the Administrative Law Judge and a notice of final decision shall be made as provided in Sections 200.165 and 200.170.

gb) In the event of the filing of a timely protest and granting of a rehearing pursuant to Section 908(c) or Section 910(c) of the Illinois Income Tax Act [35 ILCS 5/908 or 910] ~~(Ill--Rev--Stat--1987--ch--1207 pars--9-908(c) and 9-910(c)), the case and the hearing record shall be reopened and resumed to include the rehearing proceedings. Thereafter, as soon as practicable, the Department shall issue a notice of final decision, in accordance with Section 10-50 of the Illinois Administrative Procedure Act [5 ILCS 100/10-50], which, in the Department's discretion, shall be supported for purposes of the record by a statement in the nature of an opinion summarizing the facts from the record together with applicable law and rationale.~~

h) In any circumstance in which a rehearing may be granted after the original has taken place, no new or additional discovery may be initiated by any party to the proceeding.

(Source: Amended at 20 Ill. Reg. , effective JAN 1 1936)

Section 200.185 Motion Practice

- a) Any party to a proceeding pending before the Office of Administrative Hearings of the Department may raise an issue or seek to dispose of all or part of the proceeding by way of a timely motion. Any motion which is authorized under the Code of Civil Procedure [735 ILCS 5] that may be utilized in normal civil practice and is not otherwise inconsistent with administrative practice and procedure, contrary to the tax laws, or outside the scope of an Administrative Law Judge's



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**Section 200.195 The Administrative Record**

- a) Upon the filing of a complaint in the Circuit Court of any county in this State for the judicial review of a final administrative decision of the Department, the record of administrative proceedings before the Department on that decision shall constitute the Department's Answer. In accordance with Section 10-35 of the Administrative Procedure Act [5 ILCS 100/10-35], the record in each case, unless otherwise agreed upon by the parties, shall consist of the following matters:
- 1) All pleadings (including all notices and responses thereto), motions, and rulings;
  - 2) All evidence received;
  - 3) A statement of matters officially noticed;
  - 4) Any offers of proof, objections and rulings thereon;
  - 5) Any proposed findings and exceptions;
  - 6) Any decision, opinion, or report by the Administrative Law Judge;
  - 7) All staff memoranda or data submitted to the Administrative Law Judge;
  - 8) Any communication prohibited by Section 10-60 of the Illinois Administrative Procedure Act.
- b) No document of any nature shall be considered to be part of the administrative record unless it has been marked and offered or received in evidence during the course of a hearing or has otherwise been filed with the Administrative Clerk and bears an appropriate stamp as a certification of such filing. Any document not complying with this requirement shall not be considered nor have any legal effect before this agency.
- c) The parties shall be under a duty to keep the record to a reasonable minimum wherever possible. In all cases, the record shall be limited to issues which are legitimately in dispute. Documents or other items which pertain to factual matters which are not being contested nor challenged, or which may be redundant or repetitive, should be excluded from the record. Copies of tax returns, unless they are necessary for proving a contested factual issue, should also be excluded.

(Source: Added at 20 Ill. Reg. 888, effective JAN 1 1988)

**Section 200.200 Filing Procedures**

- a) The Office of the Administrative Clerk is hereby established for the purpose of receiving, registering and maintaining all documents which are or may become part of the administrative record of proceedings before the Department. Pleadings, papers, memoranda, motions and other matters not otherwise received into evidence during a hearing shall be filed with the Clerk and be stamped as having been duly registered. No document not otherwise having been admitted into

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evidence during a hearing shall become part of the administrative record without the stamp of the Clerk affixed thereto as proof of filing.

- b) With the exception of the initial protest, requests for rehearing and matters admitted into evidence during a hearing or pre-trial proceeding, all papers, pleadings, motions and other documents filed with the Department by a party in reference to any pending action shall bear the name of the proceeding as designated by the Department and the docket number assigned. Unless obvious on their face, such documents shall further be titled within the caption to disclose the nature of what is being filed (e.g., Motion to Dismiss; Proposed Findings of Fact and Conclusions of Law; Notice of Deposition; Post-Trial Supporting Memorandum; etc.). Documents which are not titled in the manner required shall not be accepted by the Clerk and shall not be part of the administrative record.
- c) All documents filed with the Administrative Clerk must be done in person, by process of United States mail, or other private courier service. Filings by facsimile transmission will not be accepted. The filing date of any document delivered by United States Mail or courier service shall be as of the postmark or transmittal date appearing on the envelope or delivery packet. Taxpayers and/or their representatives who wish to be furnished with registered copies of any documents submitted to the Clerk through the mail or courier service must include a stamped, self-addressed envelope with the filing.

(Source: Added at 20 Ill. Reg. 828, effective JAN 1 1988)

**Section 200.210 Disqualification of an Administrative Law Judge**

- a) Any party to a hearing proceeding may, following notice and an opportunity to object, move to disqualify the assigned Administrative Law Judge on the basis of bias or conflict of interest. An adverse ruling or rulings rendered against the party or its representative in any previous matter(s) shall not, in and of themselves, constitute sufficient grounds for disqualification under this Section. On satisfactory proof submitted by the moving party in support of the allegations made, the designated Administrative Law Judge shall immediately recuse him/herself from the proceeding and submit the case for reassignment.
- b) No motion for disqualification shall be permitted after any substantive ruling has been made on the case by the Administrative Law Judge, unless it pertains to a conflict of interest not previously disclosed.

(Source: Added JAN 1 1988 at 20 Ill. Reg. 938, effective JAN 1 1988)



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**Section 200.215 Ex Parte Communications**

- a) Except in the disposition of matters that agencies are authorized by law to entertain or dispose of on an ex parte basis, the Director or Assistant Director of Revenue, agency employees and Administrative Law Judges shall not, with respect to any contested matter pending, communicate directly or indirectly, in connection with any issue of fact, with any person or party, or in connection with any other issue with any party or the representative of any party, except upon notice and an opportunity for all parties to participate.
- b) An employee of the Department may communicate with other employees, and an employee or Administrative Law Judge may have the aid and advice of one or more personal assistants. However, with the exception of conversations related to scheduling and/or the signing of agreed orders, Administrative Law Judges shall not discuss the aspects of any contested case pending before the Office of Administrative Hearings with a party or representative outside the presence or without the consent of the opposing party.
- c) An ex parte communication received by the Director, Assistant Director or Administrative Law Judge shall be made part of the record of the pending matter, including all written communications, all written responses to the communications, and a memorandum stating the substance of all oral communications and all responses made and the identity of each person from whom the ex parte communication was received.
- d) Communications regarding matters of procedure and practice, such as the format of pleadings, number of copies required, manner of service, and status of proceedings, are not considered ex parte communications under this Section.

(Source: Added at 20 Ill. Reg. 888, effective  
JAN 1 1996)

**Section 200.220 Equal Application of Regulations**

It is the intent of this Part to be applied equally to all parties to hearings before the Department. With the exception of requirements for the filing of Powers of Attorney, all rights, restrictions, prohibitions, duties and responsibilities imposed by this Part shall have equal import upon the Department and its legal representatives as they do upon taxpayers or their representatives. Any Section herein which may be fairly read to state otherwise shall be construed consistent with this declaration unless otherwise provided by law.

(Source: Added at 20 Ill. Reg. 888, effective  
JAN 1 1996)

**Section 200.225 Inspection and Publication of Hearing Decisions**

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- a) Within 180 days after its issuance, the Department shall make available for public inspection, at its principal offices, any hearing decision issued on or after January 1, 1995. Decisions made available for inspection shall be edited by the Department so that the name, address and identification number of the taxpayer, any related entities and/or employees are not disclosed.
- b) Within 30 days following the issuance of any hearing decision, the taxpayer affected by such decision may also request that the Department omit specifically identified trade secrets or other such confidential information from decisions made available for public inspection. The Department, upon such request, shall consider whether the suggested deletions are reasonable and whether disclosure of such information would potentially cause economic or other injury to the taxpayer.
- c) To the same extent and with the same limitations as provided in subsections (a) and (b), above, the Department shall publish its hearing decisions and make them available to the public through the following media and at the cost indicated:
- 1) Electronic. The Department may maintain an electronic bulletin board containing all hearing decisions issued on or after January 1, 1995. The bulletin board shall be accessible through any computer by means of modem. There shall be no charge for this service.
  - 2) Floppy disk. A maximum of 25 hearing decisions may be transmitted by means of a 3 1/2 inch floppy disk, formatted to IBM or IBM compatible computers, for a cost of \$25.00 per disk. The Department shall have the right to alter the physical means of transmission as changes in technology may provide.
  - 3) Hard copy. A printed hard copy of any hearing decision on 8 1/2 x 11 inch paper can be obtained at a cost of \$1.00 per page of copy.

(Source: Added at 20 Ill. Reg. 889, effective  
JAN 1 1996)

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Relative Home Placement
- 2) Code Citation: 89 Ill. Adm. Code 335
- 3) Section Numbers: Emergency Action:  
335.100 Amendment
- 4) Statutory Authority: 20 ILCS 505/5(u-5)
- 5) Effective Date of Amendments: December 29, 1995
- 6) If this emergency amendment is to expire before the end of the 150-day period, specify the date on which it is to expire: Not applicable.
- 7) Date Filed in Agency's Principal Office: December 29, 1995
- 8) Reason for Emergency: The reason for the emergency is that the Seventh Circuit Court of the United States Court of Appeals issued its ruling in the Youakim vs. McDonald case. This ruling instructed the Department of Children and Family Services to continue paying the full board rate to approved relatives who applied for licensure as a foster family home until the license decision is made. The emergency amendments extend the date on an automatic repealer clause for this part until December 31, 1996. This enables the Department to continue to claim Federal Financial Participation for these approved relatives until the license decision is made and all administrative appeals exhausted.

These emergency amendments implement changes required by Public Act 89-21, the Budget Act, as interpreted by the Seventh Circuit Court of Appeals.

- 9) A Complete Description of the Subjects and Issues Involved: Public Act 89-21 amended the Children and Family Services Act to require that foster care payments only be made to homes which are licensed as foster family homes under the Child Care Act of 1969. Relative caregivers who were not licensed as foster family homes and who were providing care for unrelated children were reduced to the Department of Public Aid's child only standard of need.

Public Act 89-21 specifically allowed relatives who had been approved under 89 Ill. Adm. Code 335, Relative Home Placement to apply for licensure as a foster family home and to receive foster care payments until they are licensed, until their application is denied, or until September 30, 1995, whichever occurs first.

These changes in the relative home placement program were appealed by the Legal Assistance Foundation as a violation of the United States Supreme Court decision Youakim vs. Miller. A federal district court issued a

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

ruling in this case instructing the Department of Children and Family Services to continue paying the full board rate to relatives who applied for licensure as a foster family home until the license decision is made. This decision was upheld by the U.S. Court of Appeals for the Seventh Circuit. The Department had adopted amendments to 89 Ill. Adm. Code 335 to enable continued Federal Financial Participation for approved relatives who were seeking licensure as a foster home.

- 10) Are there any proposed amendments to this Part pending? No
- 11) Statement of Statewide Policy Objectives: These amendments do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Information on questions regarding these amendments shall be directed to:

Jacqueline Nottingham, Chief  
Office of Rules and Procedures  
Department of Children and Family Services  
406 E. Monroe Street, Station #222  
Springfield, IL 62701-1498  
(217) 524-1983 or TTY: (217) 524-3715

The full text of the emergency amendments begins on the next page.

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES  
SUBCHAPTER b: PROGRAM AND TECHNICAL SUPPORT

## PART 335

## RELATIVE HOME PLACEMENT

## SUBPART A: GENERAL PROVISIONS

Section  
335.100 Purpose

EMERGENCY  
335.102 Definitions (Repealed)

## SUBPART B: PLACEMENT

Section  
335.200 Identification and Selection of Relative Placements (Repealed)  
335.201 Placement Pre-conditions (Repealed)  
335.202 Continuation of Placement (Repealed)  
335.203 Required Notices and Information (Repealed)  
335.204 Payment Provisions (Repealed)

## SUBPART C: APPROVAL STANDARDS FOR RELATIVE FAMILY HOMES

Section  
335.300 Provisions Pertaining To Approval (Repealed)  
335.301 Safety Requirements for the Relative Family Home (Repealed)  
335.302 Requirements For Sleeping Arrangements (Repealed)  
335.303 Nutrition and Meals (Repealed)  
335.304 Business and Employment of Relative Foster Parents (Repealed)  
335.305 Qualifications of Relative Family Home (Repealed)  
335.306 Background Inquiry (Repealed)  
335.307 Health of Relative Family (Repealed)  
335.308 Number of Children Served (Repealed)  
335.309 Meeting Basic Needs of Related Children (Repealed)  
335.310 Health Care of Related Children (Repealed)  
335.311 Religion (Repealed)  
335.312 Education (Repealed)  
335.313 Discipline of Related Children (Repealed)  
335.314 Emergency Care of Related Children (Repealed)  
335.315 Release of Children (Repealed)  
335.316 Confidentiality of Information (Repealed)  
335.317 Required Written Consents (Repealed)  
335.318 Records To Be Maintained (Repealed)  
335.319 Cooperation with the Supervising Agency and the Department (Repealed)  
335.320 Severability of This Part (Repealed)  
335.321 Crimes Identified in Section 4.2 of the Child Care Act of 1969 (Repealed)

## APPENDIX A

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

AUTHORITY: Implementing and authorized by Section 5 of the Children and Family Services Act [20 ILCS 505/5] (see Public Act 89-21).

SOURCE: Adopted at 10 Ill. Reg. 4513, effective April 1, 1986; amended at 16 Ill. Reg. 7633, effective April 30, 1992; amended at 17 Ill. Reg. 13420, effective July 31, 1993; amended at 18 Ill. Reg. 7744, effective September 1, 1994; emergency amendment at 18 Ill. Reg. 14436, effective August 31, 1994, for a maximum of 150 days; emergency expired January 30, 1995; amended at 19 Ill. Reg. 6204, effective April 12, 1995; emergency amendment at 19 Ill. Reg. 10201, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10502, effective July 1, 1995; amended at 19 Ill. Reg. 13204, effective September 1, 1995; emergency amendment at 20 Ill. Reg. 920, effective December 29, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 2929, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

Section 335.100 Purpose  
EMERGENCY

- a) Relative caregivers who, as of July 1, 1995, were approved pursuant to approved relative placement rules previously promulgated by the Department of Children and Family Services at 89 Ill. Adm. Code 335 and had submitted an application for licensure as a foster family home continue to be approved and may continue to receive foster care payments only until the Department determines that they may be licensed as a foster family home or that their application for licensure is denied or until September 30, 1995, whichever occurs first. [20 ILCS 505/5(u-5)]
- b) This Section is automatically repealed after all administrative appeals on this matter have been exhausted, but in no event later than December 31, 1996 January 17, 1996.

(Source: Emergency amendment at 20 Ill. Reg. 920, effective December 29, 1995, for a maximum of 150 days)



## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF EMERGENCY RULES

- 1) **Heading of the Part:** Transfer of Violent Juvenile Offenders to the Department of Corrections

- 2) **Code Citation:** 89 Ill. Adm. Code 312

- 3) **Section Numbers:** **Emergency Action:**

312.10	New Section
312.20	New Section
312.30	New Section
312.40	New Section
312.50	New Section
312.60	New Section

- 4) **Statutory Authority:** Authorized by Section 5 of the Children and Family Services Act [20 ILCS 505/5] and implementing Section 3-10-11 of the Unified Code of Corrections [730 ILCS 5/3-10-11].

- 5) **Effective Date of Rules:** December 29, 1995

- 6) **If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire:** Not applicable.

- 7) **Date Filed in Agency's Principal Office:** December 29, 1995

- 8) **Reason for Emergency:** The Department of Children and Family Services occasionally has children in its guardianship who were abused, neglected, or dependent, but who also have committed violent acts which endanger the health and safety of the public. These emergency rules establish the operations of the Interagency Review Committee, which enables the Department to transfer these violent juvenile offenders to the Department of Corrections in accordance with the provisions of Section 3-10-11 of the Unified Code of Corrections.

- 9) **A Complete Description of the Subjects and Issues Involved:** This new Part describes the operations of an Interagency Review Committee, as required by amendments to Section 3-10-11 of the Unified Code of Corrections. The Interagency Review Committee is responsible, at the request of the Department of Children and Family Services, for reviewing the history of violent juvenile offenders 10 years of age or older to determine whether the Department of Children and Family Services has adequate facilities to care for and rehabilitate the minor and whether placement with the Department of Corrections, Juvenile Division is appropriate. This new Part governs the operations of the Interagency Review Committee.

- 10) **Are there any proposed amendments to this Part pending?** No

- 11) **Statement of Statewide Policy Objectives:** These amendments do not create

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF EMERGENCY RULES

- or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

- 12) **Information and questions regarding these amendments shall be directed to:**

Jacqueline Nottingham, Chief  
Office of Rules and Procedures  
Department of Children and Family Services  
406 E. Monroe Street, Station #222  
Springfield, Illinois 62701-1498

Telephone: (217) 524-1983  
TTY: (217) 524-3715

**The full text of the emergency amendments begins on the next page:**

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF EMERGENCY RULES

TITLE 89: SOCIAL SERVICES  
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES  
 SUBCHAPTER a: SERVICES DELIVERY

## PART 312

TRANSFER OF VIOLENT JUVENILE OFFENDERS  
 TO THE DEPARTMENT OF CORRECTIONS

Section	Purpose
312.10 EMERGENCY	
312.20 EMERGENCY	Definitions
312.30 EMERGENCY	Responsibilities of the Interagency Review Committee
312.40 EMERGENCY	Membership of the Interagency Review Committee
312.50 EMERGENCY	Meetings of the Interagency Review Committee
312.60 EMERGENCY	Severability of This Part

**AUTHORITY:** Authorized by Section 5 of the Children and Family Services Act [20 ILCS 505/5] and implementing Section 3-10-11 of the Unified Code of Corrections [730 ILCS 5/3-10-11].

**SOURCE:** Emergency rules adopted at 20 Ill. Reg. 924, effective December 29, 1995, for a maximum of 150 days.

**Section 312.10 Purpose**  
**EMERGENCY**

The purpose of this Part is to delineate the role and responsibilities of the Interagency Review Committee in assessing whether custody of a minor for whom the Department of Children and Family Services is the legal guardian should be transferred, pursuant to the provisions of Section 3-10-11 of the Unified Code of Corrections [730 ILCS 5/3-10-11], from the Department of Children and Family Services to the Juvenile Division of the Department of Corrections.

**Section 312.20 Definitions**  
**EMERGENCY**

"Convener" means the person selected by the Department of Children and Family Services to convene meetings of the Interagency Review Committee. The convener is not a voting member of the Interagency Review Committee, but is responsible for:

- gathering appropriate records and submitting them for the

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF EMERGENCY RULES

## Interagency Review Committee's consideration,

- preparing summary recordings of the determinations of the Interagency Review Committee, and
- submitting cases recommended by the Interagency Review Committee to the Department of Corrections for certification whether it has suitable facilities and personnel available for confinement of the minor transferred pursuant to 730 ILCS 5/3-10-11.

"Interagency Review Committee" means a body convened by the Department of Children and Family Services to review the cases of youth who are under the guardianship of the Department of Children and Family Services for purposes of determining whether:

- the Department of Children and Family Services lacks adequate facilities to care for and rehabilitate the minor(s), and
- whether placement of the minor(s) with the Department of Corrections, subject to certification by the Department of Corrections, is appropriate.

"Youth" means a minor age 10 through 17 who is under the guardianship of the Department of Children and Family Services, who has been adjudicated delinquent, and who may be transferred from the care and custody of the Department of Children and Family Services to the Department of Corrections pursuant to Section 3-10-11 of the Unified Code of Corrections [730 ILCS 5/3-10-11].

**Section 312.30 Responsibilities of the Interagency Review Committee**  
**EMERGENCY**

The Interagency Review Committee is responsible for determining whether:

- a) the Department of Children and Family Services lacks adequate facilities to care for and rehabilitate a youth, as defined in Section 312.20; and
- b) placement of such youth with the Department of Corrections, subject to certification by the Department of Corrections, is appropriate.

**Section 312.40 Membership of the Interagency Review Committee**  
**EMERGENCY**

- a) The Interagency Review Committee shall be composed of four members. The members of the Interagency Review Committee shall include a representative from the Department of Children and Family Services, a representative from the Department of Corrections, an educator and a qualified mental health professional.
- b) The Department of Children and Family Services and the Department of

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY RULES

NOTICE OF EMERGENCY RULES

- for confinement of the youth, if transferred pursuant to 730 ILCS 5/3-10-11.
- f) After the Deputy Director of the Juvenile Division has certified or refused to certify the transfer as appropriate, the summary shall be returned to the convener. The convener shall distribute the summary, including the Department of Corrections decision regarding certification to each member of the Interagency Review Committee, to the youth, and the youth's parent, guardian, or closest relative.
  - g) If recommended by the Interagency Review Committee and certified by the Department of Corrections, Juvenile Division, the Department of Children and Family Services may file a petition pursuant to 730 ILCS 5/3-10-11 to transfer the youth from the care and custody of the Department of Children and Family Services to the Department of Corrections, Juvenile Division.

Section 312.50 Meetings of the Interagency Review Committee  
EMERGENCY

Section 312.60 Severability of This Part  
EMERGENCY

- a) The Interagency Review Committee shall not have an established meeting schedule, but will be convened as necessary to review cases submitted to it. The convener shall select a time and location convenient to the members of the Interagency Review Committee and shall notify the members of the time and location of the meetings.
- b) Interagency Review Committee meetings may be conducted by telephone, as necessary.
- c) The convener shall provide each member with all pertinent records related to the case to be reviewed. These records may include, but are not limited to, the following:
  - 1) child welfare records, including records of child abuse and neglect reports and investigations,
  - 2) medical records,
  - 3) psychological and psychiatric records,
  - 4) behavioral and/or disciplinary records,
  - 5) educational records, including individual educational plans and records of multi-disciplinary staffings,
  - 6) court records, including petitions, social investigations, and dispositional orders,
  - 7) probation records, and
  - 8) criminal history records.
- d) All information provided to the Interagency Review Committee is confidential and shall not be disclosed to unauthorized persons outside the Interagency Review Committee. Due to the sensitive and confidential nature of the discussions and records involved, all meetings of the Interagency Review Committee shall be closed meetings which are not open to the public.
- e) The convener shall prepare a summary of the determinations made in each case reviewed by the Interagency Review Committee. The summary will be forwarded to the Deputy Director of the Juvenile Division for the Department of Corrections to allow the Department of Corrections to certify whether it has suitable facilities and personnel available

If any court of competent jurisdiction finds that any clause, phrase, or provision of this Part is unconstitutional or invalid for any reason whatsoever, this finding shall not affect the validity of the remaining portions of this Part.



JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of December 26, 1995 through January 1, 1996 and have been scheduled for review by the Committee at its January 23, 1996 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start of First Notice</u>	<u>JCAR Meeting</u>
2/9/96	State Board of Education, School Technology Program (23 Ill Adm Code 575)	10/6/95 19 Ill Reg 13701	1/23/96
2/9/96	State Board of Education, Repeal of Efficient and Adequate Standards for the Building Specifications for the Construction of Schools (23 Ill Adm Code 175)	10/13/95 19 Ill Reg 14162	1/23/96
2/9/96	State Board of Education, Repeal of Building Specifications for Health and Safety in Public Schools (23 Ill Adm Code 185)	10/13/95 19 Ill Reg 13996	1/23/96
2/9/96	Illinois Commerce Commission, Repeal of Standards of Service Applicable to 9-1-1 Emergency Systems (General Order 207) (83 Ill Adm Code 725)	10/6/95 19 Ill Reg 13663	1/23/96
2/9/96	Illinois Commerce Commission, Standards of Service Applicable to 9-1-1 Emergency Systems (83 Ill Adm Code 725)	10/6/95 19 Ill Reg 13632	1/23/96
2/10/96	Illinois Industrial Commission, Insurance Regulations (50 Ill Adm Code 7100)	6/16/95 19 Ill Reg 7770	1/23/96
2/10/96	Illinois Industrial Commission, Arbitration (50 Ill Adm Code 7030)	6/16/95 19 Ill Reg 7764	1/23/96

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

2/10/96	Illinois Industrial Commission, Arbitration (50 Ill Adm Code 7030)	9/8/95 19 Ill Reg 12569	1/23/96
2/10/96	Illinois Industrial Commission, Pre-Arbitration (50 Ill Adm Code 7020)	9/8/95 19 Ill Reg 12577	1/23/96

## EXECUTIVE ORDER

NUMBER FOUR (1995)

EXECUTIVE ORDER CREATING  
THE GOVERNOR'S COMMISSION ON GANGS IN ILLINOIS

WHEREAS, street-gangs and gang violence threaten the safety of all Illinois citizens; and

WHEREAS, families, schools, churches, cities, towns, and villages throughout Illinois are impacted by gang crime; and

WHEREAS, it is necessary and desirable to examine the destruction gangs bring to every community they touch; and

WHEREAS, it is necessary and desirable to study the methods currently employed to combat gang activity whether that be via the criminal justice system, the school system, or the human service system; and

WHEREAS, it is desirable to establish a commission to aggressively investigate and recommend responses to the explosion of street-gang crime in Illinois;

THEREFORE, I, Jim Edgar, order the following:

## I. CREATION

There shall be established the Governor's Commission on Gangs in Illinois.

## II. PURPOSE

The duties of the Commission shall include, but not be limited to the following:

- A. to study the problem posed by criminal gangs to the public safety.
- B. to examine ways of making improvements to better enable law enforcement, the criminal justice system, schools and government address the criminal gang problem.
- C. to make recommendations to the Governor and to members of the General Assembly for statutory changes necessary to improve societal and governmental response to the criminal gang problem.

## III. MEMBERSHIP.

- A. The Commission shall consist of at least 30 members but not more than 35 members appointed by the Governor, one of whom shall be the Attorney General.
- B. The Attorney General shall serve as Chairperson of the Commission.
- C. Members will serve without compensation, but may be reimbursed

for expenses.

## IV. EFFECTIVE DATE.

This Executive Order Number 4 (1995) shall be effective upon filing with the Secretary of State.

Jim Edgar  
GOVERNOR

December 19, 1995

## EXECUTIVE ORDER

NUMBER FIVE (1995)

WHEREAS, the United States has sent peace-keeping forces to Bosnia-Herzegovina; and

WHEREAS, State of Illinois employees have been activated and others may be called to serve in active military duty in connection with the Bosnia-Herzegovina peace-keeping effort; and

WHEREAS, no State employee should lose compensation or benefits because of military service in this peace-keeping effort; and

THEREFORE, I, Jim Edgar order the following:

WHEREAS, it is desirable to establish a commission to aggressively investigate and recommend responses to the explosion of street-gang crime in Illinois;

THEREFORE, I, Jim Edgar, order the following:

I. That any full-time employee of the State of Illinois under any control, who is a member of any reserve component of the United States Armed Forces, including the Illinois National Guard, who is mobilized to active military duty in connection with the peace-keeping efforts underway in Bosnia-Herzegovina, shall continue to receive his or her regular compensation as a State employee, plus any health insurance and other benefits he or she is currently receiving, minus the amount of his or her base pay for military activities.

II. I further order the Department of Central Management Services to immediately commence negotiations with the appropriate collective bargaining representatives on terms and conditions consistent with this order. CMS also shall coordinate with all other State and federal agencies and take all other actions necessary to implement this order.

This Executive Order Number 5 (1995) shall take effect upon filing with the Secretary of State.

Jim Edgar  
GOVERNOR

December 22, 1995

Rules acted upon during the quarter of January 1 through March 31, 1996 are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 952 published in Issue 2 will be listed as 50-952-2. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-7017.

## PROPOSED

35-365-2  
2-2500-2  
2-2501-2  
8-281-1  
8-283-1  
8-505-1  
20-107-1  
20-1280-1  
32-505-1  
35-218-1  
35-219-1  
35-366-1  
56-5300-1  
68-800-1  
77-245-1  
77-250-1  
77-280-1  
77-300-1  
77-330-1  
77-340-1  
77-350-1  
77-370-1  
77-390-1  
77-395-1  
80-1200-2  
80-1210-2  
80-1220-2  
86-470-2  
89-312-2  
89-335-2

## EMERGENCY

14-135-1  
14-140-1  
14-145-1  
20-1280-1  
56-5300-1  
77-245-1  
77-250-1  
77-280-1  
77-300-1  
77-330-1  
77-340-1  
77-350-1  
77-370-1  
77-390-1  
77-395-1  
89-312-2  
89-335-2

## ADOPTED

2-1900-1  
2-1901-1  
8-25-1  
8-85-1  
8-90-1  
8-110-1  
8-116-1  
8-600-1  
11-100-2  
17-590-2  
17-710-2  
17-2030-2  
17-2575-2





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